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TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter III—Foreign and Territorial Compensation

Subchapter B—The Secretary of State

[Dept. Reg. 108.133]

PART 325—ADDITIONAL COMPENSATION IN FOREIGN AREAS

DESIGNATION OF DIFFERENTIAL POSTS

Section 325.11, *Designation of differential posts*, is amended as follows, effective on the date indicated:

1. Effective as of the beginning of the first pay period following July 21, 1951, paragraph (d) is amended by the addition of the following post:

Berlin, Germany.

(Sec. 102, Part I, E. O. 10000, Sept. 16, 1948, 13 F. R. 5453; 3 CFR, 1948 Supp.)

Issued: July 26, 1951.

For the Secretary of State.

W. K. SCOTT,
Deputy Assistant Secretary.

[F. R. Doc. 51-9715; Filed, Aug. 15, 1951; 8:47 a. m.]

[Dept. Reg. 108.134]

PART 325—ADDITIONAL COMPENSATION IN FOREIGN AREAS

DESIGNATION OF DIFFERENTIAL POSTS

Section 325.11, *Designation of differential posts*, is amended as follows, effective on the dates indicated:

1. Effective as of the beginning of the first pay period following August 4, 1951, paragraph (a) is amended by the deletion of the following post:

Lahore, Pakistan.

2. Effective as of the beginning of the first pay period following August 4, 1951, paragraph (b) is amended by the deletion of the following posts:

Belgrade, Yugoslavia.
Merida, Mexico.
Moscow, U. S. S. R.
Philippines, all posts except Baguio, Cagayan, Cebu, Davao, Iloilo, Legaspi, Subic Bay, Tubabao (Guiuan), and Zamboanga.

3. Effective as of the beginning of the first pay period following August 4, 1951, paragraph (d) is amended by the deletion of the following posts:

Guaymas, Mexico.
Tampico, Mexico.

4. Effective as of the beginning of the first pay period following July 7, 1951, paragraph (a) is amended by the addition of the following post:

Calama, Chile.

5. Effective as of the beginning of the first pay period following August 4, 1951, paragraph (a) is amended by the addition of the following post:

Moscow, U. S. S. R.

6. Effective as of the beginning of the first pay period following August 4, 1951, paragraph (b) is amended by the addition of the following posts:

Philippines, all posts except Baguio City, Cagayan, Cebu, Davao, Iloilo, Legaspi, Subic Bay, Tubabao (Guiuan), and Zamboanga.

7. Effective as of the beginning of the first pay period following August 4, 1951, paragraph (c) is amended by the addition of the following posts:

Guaymas, Mexico.
Merida, Mexico.
Tampico, Mexico.

8. Effective as of the beginning of the first pay period following August 4, 1951, paragraph (d) is amended by the addition of the following post:

Vienna, Austria.

(Sec. 102, Part I, E. O. 10000, Sept. 16, 1948, 13 F. R. 5453; 3 CFR, 1948 Supp.)

Issued: August 1, 1951.

For the Secretary of State.

W. K. SCOTT,
Deputy Assistant Secretary.

[F. R. Doc. 51-9716; Filed, Aug. 15, 1951; 8:48 a. m.]

TITLE 7—AGRICULTURE

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

PART 954—MILK IN DULUTH-SUPERIOR MARKETING AREA

ORDER AMENDING THE ORDER, AS AMENDED, REGULATING THE HANDLING

§ 954.0 *Findings and determinations.* The findings and determinations here-

(Continued on p. 3105)

CONTENTS

FEDERAL REGISTER

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CONTENTS—Continued

CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

inafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Duluth, Minnesota, on May 15, 1951, upon a proposed amendment to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Duluth-Superior, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act.

(2) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is hereby found and determined that good cause exists for making effective not later than September 1, 1951, this order amending the said order, as amended. This action is necessary in the public interest in order to reflect current marketing conditions and to insure the production of an adequate supply of milk. Accordingly, any further delay in the effective date of this order, as amended, and as hereby further amended, will seriously impair orderly marketing of milk in the Duluth-Superior marketing area. The provisions of the said amendatory order are well known to handlers—the public hearing having been held May 15, 1951, and the decision having been executed by the Secretary on July 26, 1951. Reasonable time under the circumstances has been afforded persons affected to prepare for its effective date. Therefore, it would be impracticable and contrary to the public interest to delay the effective date of this amendatory order 30 days after its publication in the FEDERAL REGISTER (see sec. 4 (c) Administrative Procedure Act, Pub. Law 404, 79th Cong. 60 Stat. 237).

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the milk covered by this order amending the order, as amended,) of more than 50 percent of the volume of milk covered by the aforesaid order, as amended, and as hereby further amended, which is marketed within the Duluth-Superior marketing area, refused or failed to sign the marketing agreement regulating the handling of milk in the said marketing area; and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this order amending the said order, as amended, is the only practical means, pursuant to the declared policy of the act, of advancing the interests of the producers of milk which is produced for sale in the said marketing area; and

(3) The issuance of this order amending the order, as amended, is approved or favored by at least two-thirds of the producers who, during the determined representative period (April 1951), were engaged in the production of milk for sale in the said marketing area.

Order Relative to Handling

It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Duluth-Superior, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended as follows:

1. Delete § 954.41 (a) and substitute therefor the following:

(a) Class I milk shall be all skim milk and butterfat (1) disposed of in the form of milk, skim milk, buttermilk, flavored milk, flavored milk drinks, and cream for fluid consumption (including any mixture of cream and milk or skim milk containing less butterfat than the minimum requirement for cream), (2) used in the production of concentrated milk, not sterilized, for fluid consumption, and (3) not specifically accounted for as used to produce a Class II product.

2. Delete § 954.51 and substitute therefor the following:

§ 954.51 *Butterfat differentials to handlers*—(a) *Class I milk.* If the average butterfat content of the milk disposed of as Class I milk by any handler is more or less than 3.5 percent, there shall be added to the Class I price computed pursuant to § 954.50 (a) for each one-tenth of 1 percent that the average butterfat content of such milk is above 3.5 percent, or subtracted for each one-tenth of 1 percent that the average butterfat content of such milk is below 3.5 percent, an amount computed by multiplying by 1.40 the simple average of the daily wholesale selling prices per pound of Grade A (92-score) bulk creamery butter as reported by the United States Department of Agriculture for the Chicago market during the period from the 25th day of the month second preceding

such delivery period through the 24th day of the month immediately preceding such delivery period and divide the result by 10.

(b) *Class II milk.* If the average butterfat content of the Class II milk disposed of by any handler is more or less than 3.5 percent there shall be added to the class price computed pursuant to § 954.50 (b) for each one-tenth of 1 percent that the average butterfat content of such milk is above 3.5 percent or subtracted for each one-tenth of 1 percent that the average butterfat content of such milk is below 3.5 percent, an amount computed by multiplying by 1.25 the simple average of the daily wholesale selling prices per pound of Grade A (92-score) bulk creamery butter as reported by the United States Department of Agriculture for the Chicago market during the period from the 25th day of the month second preceding such delivery period through the 24th day of the month immediately preceding such delivery period and divide the result by 10.

3. Amend § 954.81 by deleting therefrom the reference "§ 954.51" and substituting therefor "§ 954.51 (b)."

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup., 608c)

Issued at Washington, D. C., this 13th day of August 1951 to be effective on and after the 1st day of September 1951.

[SEAL] C. J. McCORMICK,
Acting Secretary of Agriculture.

[F. R. Doc. 51-9746; Filed, Aug. 15, 1951; 8:53 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 5805]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

HENRY MODELL & CO., INC., ET AL.

Correction

In Federal Register Document 51-9628, published at page 8040 of the issue for Wednesday, August 15, 1951, the authority citation should read:

(Sec. 6, 38 Stat. 722; 15 U. S. C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45)

[Docket 5826]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

S. WAXMAN ET AL.

Correction

In Federal Register Document 51-9629, appearing at page 8041 of the issue for Wednesday, August 15, 1951, the authority citation should read:

(Sec. 6, 38 Stat. 722, sec. 6, 54 Stat. 1131; 15 U. S. C. 46, 68d. Interprets or applies sec. 5, 38 Stat. 719, as amended, secs. 2-5, 54 Stat. 1128-1130; 15 U. S. C. 45, 68-68c)

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter I — Commodity Exchange Authority (Including Commodity Exchange Commission), Department of Agriculture

[Hearing Docket CE-P 7]

PART 150—ORDERS OF THE COMMODITY EXCHANGE COMMISSION

LIMITS ON POSITION AND DAILY TRADING IN EGGS FOR FUTURE DELIVERY

Findings of fact. Pursuant to the provisions of section 4a of the Commodity Exchange Act (7 U. S. C. 6a), the Commodity Exchange Commission, after investigation and full consideration of the record made at public hearing held in Washington, D. C., on February 5 and 6 and April 2, 1951, of which due public notice had been given and at which all persons were given opportunity to hear, present, refute, and comment on evidence in the premises, does hereby find:

(a) Trading in eggs for future delivery on or subject to the rules of a contract market by a person who holds or controls a speculative net position, long or short, of more than (1) 150 carlots in any one egg future maturing in any delivery month from February to September, inclusive, (2) 100 carlots in the October egg future, (3) 75 carlots in the November egg future, (4) 50 carlots in the December egg future, (5) 50 carlots in the January egg future, or (6) 150 carlots in all egg futures combined, on or subject to the rules of such contract market, tends to cause sudden or unreasonable fluctuations or changes in the price of eggs not warranted by changes in the conditions of supply or demand.

(b) Speculative buying or selling by a person during one business day of more than (1) 150 carlots in any one egg future maturing in any delivery month from February to September, inclusive, (2) 100 carlots in the October egg future, (3) 75 carlots in the November egg future, (4) 50 carlots in the December egg future, (5) 50 carlots in the January egg future, or (6) 150 carlots in all egg futures combined, on or subject to the rules of a contract market, tends to cause sudden or unreasonable fluctuations or changes in the price of eggs not warranted by changes in the conditions of supply or demand.

Conclusions. Upon the foregoing facts, it is concluded that in order to prevent excessive speculation in egg futures which will cause sudden, unreasonable, or unwarranted fluctuations or changes in price resulting in an undue and unnecessary burden on interstate commerce in eggs, it is necessary to establish limits on the amount of speculative trading under contracts of sale of eggs for future delivery on or subject to the rules of contract markets which may be done by any person; that the amounts set forth in paragraphs (a) and (b), respectively, of the above Findings of Fact are reasonable limits on the net long or net short speculative position which any person may hold or control, and upon the daily speculative purchases or sales which any person may make, in egg futures on or subject to the rules of any contract market.

§ 150.5 *Limits on position and daily trading in eggs for future delivery.* The following limits on the amount of trading under contracts of sale of eggs for future delivery on or subject to the rules of any contract market, which may be done by any person, are hereby proclaimed and fixed, to be in full force and effect on and after October 1, 1951.

(a) *Position limit.* The limit on the maximum net long or net short position which any person may hold or control in eggs on or subject to the rules of any one contract market is 150 carlots in any one future or in all futures combined: *Provided,* That no person may hold or control a net long or net short position in excess of (1) 100 carlots in the October egg future, (2) 75 carlots in the November egg future, (3) 50 carlots in the December egg future, or (4) 50 carlots in the January egg future.

(b) *Daily trading limit.* The limit on the maximum amount of eggs which any person may buy, and on the maximum amount which any person may sell, on or subject to the rules of any one contract market during any one business day is 150 carlots in any one future or in all futures combined: *Provided,* That no person may buy or sell during any one business day more than (1) 100 carlots in the October egg future, (2) 75 carlots in the November egg future, (3) 50 carlots in the December egg future, or (4) 50 carlots in the January egg future.

(c) *Bona fide hedging.* The foregoing limits upon position and upon daily trading shall not be construed to apply to bona fide hedging transactions, as defined in section 4a (3) of the Commodity Exchange Act (7 U. S. C. 6a (3)).

(d) *Manipulation; corners; responsibility of contract market.* Nothing contained in this section shall be construed to affect any provisions of the Commodity Exchange Act relating to manipulation or corners, nor to relieve any contract market or its governing board from responsibility under section 5 (d) of the Commodity Exchange Act (7 U. S. C. 7 (d)) to prevent manipulation and corners.

(e) *Definition.* As used in this section, the word "person" includes individuals, associations, partnerships, corporations, and trusts.

(Sec. 4a, 49 Stat. 1492; 7 U. S. C. 6a)

Issued this 13th day of August 1951.

COMMODITY EXCHANGE COMMISSION,
[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture, Chairman.
CHARLES SAWYER,
Secretary of Commerce.
PEYTON FORD,
Acting Attorney General.

[F. R. Doc. 51-9748; Filed, Aug. 15, 1951; 8:53 a. m.]

[Hearing Docket CE–P 7]

PART 150—ORDERS OF THE COMMODITY EXCHANGE COMMISSION

LIMITS ON POSITION AND DAILY TRADING IN SOYBEANS FOR FUTURE DELIVERY

Findings of fact. Pursuant to the provisions of section 4a of the Commodity Exchange Act (7 U. S. C. 6a), the Commodity Exchange Commission, after investigation and full consideration of the record made at public hearing held in Washington, D. C. on February 5 and 6 and April 2, 1951, of which due public notice had been given and at which all persons were given opportunity to hear, present, refute, and comment on evidence in the premises, does hereby find:

(a) Trading in soybeans for future delivery on or subject to the rules of a contract market by a person who holds or controls a speculative net position of more than 1,000,000 bushels, long or short, in any one future or in all futures combined in soybeans, on or subject to the rules of such contract market, tends to cause sudden or unreasonable fluctuations or changes in the price of soybeans not warranted by changes in the conditions of supply or demand.

(b) Speculative buying or selling by a person during one business day of more than 1,000,000 bushels in any one future or in all futures combined in soybeans, on or subject to the rules of a contract market, tends to cause sudden or unreasonable fluctuations or changes in the price of soybeans not warranted by changes in the conditions of supply or demand.

Conclusions. Upon the foregoing facts, it is concluded that in order to prevent excessive speculation in soybean futures which will cause sudden, unreasonable, or unwarranted fluctuations or changes in price resulting in an undue and unnecessary burden on interstate commerce in soybeans, it is necessary to establish limits on the amount of speculative trading under contracts of sale of soybeans for future delivery on or subject to the rules of contract markets which may be done by any person; that 1,000,000 bushels is a reasonable limit on the net long or net short speculative position which any person may hold or control, and upon the daily speculative purchases or sales which any person may make, in any one future or in all futures combined in soybeans on or subject to the rules of any contract market.

§ 150.4 *Limits on position and daily trading in soybeans for future delivery.* The following limits on the amount of trading under contracts of sale of soybeans for future delivery on or subject to the rules of any contract market, which may be done by any person, are hereby proclaimed and fixed, to be in full force and effect on and after October 1, 1951.

(a) *Position limit.* The limit on the maximum net long or net short position which any person may hold or control in soybeans on or subject to the rules of any one contract market is 1,000,000 bushels in any one future or in all futures combined.

(b) *Daily trading limit.* The limit on the maximum amount of soybeans which any person may buy, and on the maximum amount which any person may sell, on or subject to the rules of any one contract market during any one business day is 1,000,000 bushels in any one future or in all futures combined.

(c) *Bona fide hedging.* The foregoing limits upon position and upon daily trading shall not be construed to apply to bona fide hedging transactions, as defined in section 4a (3) of the Commodity Exchange Act (7 U. S. C. 6a (3)).

(d) *Manipulation; corners; responsibility of contract market.* Nothing contained in this section shall be construed to affect any provisions of the Commodity Exchange Act relating to manipulation or corners, nor to relieve any contract market or its governing board from responsibility under section 5 (d) of the Commodity Exchange Act (7 U. S. C. 7 (d)) to prevent manipulation and corners.

(e) *Definition.* As used in this section, the word "person" includes individuals, associations, partnerships, corporations, and trusts.

(Sec. 4a, 49 Stat. 1492; 7 U. S. C. 6a)

Issued this 13th day of August 1951.

COMMODITY EXCHANGE COMMISSION,
[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture, Chairman.
CHARLES SAWYER,
Secretary of Commerce.
PEYTON FORD,
Acting Attorney General.

[F. R. Doc. 51–9747; Filed, Aug. 15, 1951; 8:53 a. m.]

TITLE 31—MONEY AND FINANCE: TREASURY

Chapter V—Foreign Assets Control, Department of the Treasury

PART 500—FOREIGN ASSETS CONTROL REGULATIONS

CUSTOMS PROCEDURES: MERCHANDISE OF CHINESE OR KOREAN ORIGIN

AUGUST 13, 1951.

31 CFR 500.808, 16 F. R. 2179, is hereby amended by the amendment of paragraph (a) and by the addition of paragraphs (g) and (h) and as so amended shall read as follows:

§ 500.808 *Customs procedures: Merchandise of Chinese or Korean origin.* (a) Collectors of customs after March 7, 1951, shall not accept or allow any:

(1) Entry for consumption (including any appraisement entry or entry of goods imported in the mails, regardless of value, but excluding other informal entries);

(2) Entry for immediate exportation;

(3) Entry for transportation and exportation;

(4) Withdrawal from warehouse;

(5) Transfer or withdrawal from a foreign-trade zone, or

(6) Manipulation or manufacture in a warehouse or in a foreign-trade zone with respect to merchandise arriving in the United States from any country after that date if the country of origin of such merchandise is China (except Formosa) or North Korea until

(i) A specific license pursuant to this chapter is presented, or

(ii) The provisions of paragraph (e) of this section shall have been complied with, or

(iii) Instructions from the Foreign Assets Control either directly or through the Federal Reserve Bank of New York authorizing the transaction are received.

(b) Whenever a specific license is presented to a collector of customs in accordance with this section, two additional legible copies of the entry, withdrawal or other appropriate document with respect to the merchandise involved shall be filed with the collector of customs at the port where the transaction is to take place. Each copy of any such entry, withdrawal or other appropriate document including the two additional copies shall bear plainly on its face the number of the license pursuant to which it is filed. The original copy of the specific license shall be presented to the collector in respect of each such transaction and shall bear a notation in ink by the licensee or person presenting the license showing the description, quantity, and value of the merchandise to be entered, withdrawn or otherwise dealt with. This notation should be so placed and so written that there will exist no possibility of confusing it with anything placed on the license at the time of its issuance. If the license in fact authorizes the entry, withdrawal or other transaction with regard to the merchandise the collector, or other authorized customs employee, shall verify the notation by signing or initialing it after first assuring himself that it accurately describes the merchandise it purports to represent. The license shall thereafter be returned to the person presenting it and the two additional copies of the entry, withdrawal or other appropriate document shall be forwarded by the collector to the Federal Reserve Bank of New York.

(c) (1) The collector of customs at any port at which merchandise is to be entered or withdrawn pursuant to the terms of a specific license may waive the requirement of presentation of the original copy of such license: *Provided,* That:

(i) The person presenting the entry or withdrawal presents to the collector an affidavit stating:

(*a*) Facts indicating that it would be a hardship for him to present the original copy of the license, and

(*b*) That the entry or withdrawal is one of a large number which are to be made pursuant to the same license, and

(*c*) That all the entries or withdrawals are to be made at the same port; and

(ii) The collector receiving such an affidavit is satisfied that the circumstances in fact warrant the waiver; and

(iii) There is presented to the collector either a photostatic copy of the original license or a copy of the license signed by the officer who issued and signed the original.

(2) If such waiver is granted, the collector shall retain the copy of the license presented to him and shall note on it, or cause to be noted on it, the description, quantity, and value of all merchandise entered or withdrawn from time to time pursuant to the authority therein contained.

(3) When such waiver is granted and all the merchandise authorized to be entered or withdrawn under a specific license has been entered or withdrawn, the copy of the license on file with the collector shall be endorsed to indicate this fact and shall be forwarded to the Federal Reserve Bank of New York. When a license expires, unless it is renewed and the collector is advised of its renewal, any copy thereof which is on file with the collector shall be endorsed to show the expiration and shall be forwarded to the Federal Reserve Bank of New York.

(d) The requirement that two additional copies of each entry or withdrawal be filed in connection with every transaction under a specific license shall remain in effect notwithstanding any waiver of the requirement of presenting the original copy of the license.

(e) Whenever a person shall present an entry, withdrawal or other appropriate document and shall assert that the entry, withdrawal or other transaction with respect to the merchandise affected by this section is authorized pursuant to § 500.534 he shall be required to file two additional legible copies of the entry, withdrawal or other appropriate document upon the face of each of which shall appear the statement, "Effected pursuant to § 500.534 of the Foreign Assets Control Regulations". He shall also attach to each of the two additional copies a signed additional statement setting forth full details regarding all payments made or to be made with respect to the merchandise or its importation, including the names of all persons who have been or will be paid in connection therewith and the manner of such payment. This statement shall include a declaration with respect to the name of the domestic bank or banks in which payments have been or will be made and the names of blocked account or accounts in such banks which have been or will be credited and shall specify the amount or amounts so credited or to be credited. The two additional copies of the entry, withdrawal or other appropriate document together with the attached copies of the additional statement, shall be forwarded by the collector of customs to the Federal Reserve Bank of New York.

(f) Whenever a person shall present an entry, withdrawal or other appropriate document affected by this section and shall assert that no Foreign Assets Control license is required in connection therewith, the collector of customs shall withhold action thereon and shall advise such person to communicate directly with the Federal Reserve Bank of New York to request that instructions be issued to the collector to authorize him to take action with regard thereto.

(g) Articles which are the growth, produce, or manufacture of China (except Formosa) or North Korea shall be deemed for the purposes of this chapter to be merchandise whose country of origin is China (except Formosa) or North Korea notwithstanding that they may have been subjected to one or any combination of the following in another country:

1, Grading; 2, testing; 3, checking; 4, shredding; 5, slicing; 6, peeling or splitting; 7, scraping; 8, cleaning; 9, washing; 10, soaking; 11, drying; 12, cooling, chilling, or refrigerating; 13, roasting; 14, steaming; 15, cooking; 16, curing; 17, combining of fur skins into plates; 18, blending; 19, flavoring; 20, preserving; 21, pickling; 22, smoking; 23, dressing; 24, salting; 25, dyeing; 26, bleaching; 27, tanning; 28, packing; 29, canning; 30, labeling; 31, any process similar to any of the foregoing.

(h) Any article wheresoever manufactured shall be deemed for the purposes of this chapter to be merchandise whose country of origin is China (except Formosa) or North Korea, if there shall have been added to such article any embroidery, needle point, petit point, lace or any other article of adornment which is the product of China (except Formosa) or North Korea notwithstanding that such addition to the merchandise may have occurred in a country other than China (except Formosa) or North Korea.

(Sec. 5, 40 Stat. 415, as amended; 50 U. S. C. App. 5; E. O. 9193, July 6, 1942, 7 F. R. 5205, 3 CFR 1943 Cum. Supp., E. O. 9989, Aug. 20, 1948, 13 F. R. 4891; 3 CFR 1948 Supp.)

[SEAL] JOHN W. SNYDER,
Secretary of the Treasury.

[F. R. Doc. 51—9737; Filed, Aug. 15, 1951; 12:00 p. m.]

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter III—Office of Price Stabilization, Economic Stabilization Agency

[Ceiling Price Regulation 16, Amdt. 5]

CPR 16—CEILING PRICES OF CERTAIN FOODS SOLD AT RETAIL IN GROUP 1 AND GROUP 2 STORES

ADJUSTMENT FOR CERTAIN RETAILERS WHO ALSO OPERATE AS WHOLESALERS

Pursuant to the Defense Production Act of 1950 (Pub. Law 774, 81st Cong.), as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Amendment 5 to Ceiling Price Regulation 16 is hereby issued.

STATEMENT OF CONSIDERATIONS

This amendment permits certain retail stores pricing under CPR 16, which also operate as wholesalers under CPR 14, to compute ceiling prices for sales at retail of items which they also exclusively distribute at wholesale by applying the appropriate markup in Table A of CPR 16 to a "net cost" established by using their wholesale "net cost" plus the appropriate markup in Table A of CPR 14.

A small number of grocery operations exist today which sell a private label merchandise at retail in their own stores, as well as at wholesale to retail stores directly in competition with themselves. In these instances the operators which originally sold their own private label goods only at retail built up such a consumer acceptance for their goods that competitive retailers purchased the goods for distribution at retail. Contrary to general experience in the food distribution business these operations flourished and proved to be successful. The continued success of such an operation was primarily due to the fact that the same prices for such items were maintained in their own and other retail stores. The provisions of CPR's 14 and 16 have made it impossible for such an operation to continue this historic practice without substantial loss because under section 22 of CPR 16, prior to this amendment, such stores could only use as a basis for their "net costs" as a retailer their wholesale "net cost" plus the appropriate markup in Table A of CPR 14 allowed for a class 1 (retailer-owned cooperative) wholesaler. Consequently, the distributor must sell his merchandise at retail at a price lower than his retail customers must sell the same merchandise.

Ordinarily, the provisions of section 22 of CPR 16 are fair and equitable in pricing most food items but result in a hardship when applied to private label items sold at wholesale by such a retailer-wholesaler. The reason for this is that this type of operator assumes full responsibility for his private label and for the cost of product promotion which is normally the function of the food manufacturer or processor. Therefore, this operator purchases his private label merchandise from a manufacturer or a processor at a lower price than he purchases other comparable items. Available data indicates that in these cases an adjustment is necessary to permit such operators to recapture their cost of product promotion as well as to permit them to continue to maintain the historic price structure for the sale of their private label goods in their own retail stores as well as in the stores of their retail customers.

Prior to the issuance of this amendment, the Director consulted with industry representatives and has given consideration to their recommendations.

AMENDATORY PROVISIONS

1. Section 22 is amended by adding paragraph (c) to read as follows:

(c) If you qualify under paragraph (a) of this section, and (1) your sales of food to independent retail stores not owned or controlled by you were equal to at least 25 percent of the total sales of food made by you at retail; and (2) at least 80 percent of such wholesale food sales were of items sold at wholesale by you only; and (3) during your fiscal year 1950 the average wholesale markup on all food items sold at wholesale by you only was at least 18 percent on cost;

you may file an application for permission to use as the basis of your "net cost", in figuring your retail ceiling prices on items sold at wholesale by you only, your wholesale ceiling prices of such items figured under Ceiling Price Regulation No. 14. Such application

must be filed in duplicate with the Distribution Branch, Food & Restaurant Division, OPS, Washington, D. C., and shall contain the following information:

(1) That you have previously qualified under section 22, CPR 16 by submitting a certified copy of the letter submitted to your local OPS office in compliance with paragraph (b) of that section.

(2) A breakdown of total sales, for the fiscal year 1950, showing that your sales to independent retail stores were equal to at least 25 percent of total sales at retail.

(3) A breakdown of the above sales at wholesale to show that at least 80 percent of the items were sold by you only.

(4) A statement that during the fiscal year 1950 the average wholesale markup on all food items sold at wholesale only by you was at least 18 percent on cost.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

Effective date: This amendment shall become effective on the 17th day of August 1951.

NOTE: The record-keeping and reporting requirements of this amendment have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

MICHAEL V. DISALLE,
Director of Price Stabilization.

AUGUST 14, 1951.

[F. R. Doc. 51-9776; Filed, Aug. 14, 1951; 3:47 p. m.]

[Ceiling Price Regulation 22, Amdt. 22]

CPR 22—MANUFACTURERS' GENERAL CEILING PRICE REGULATION

CUT-OFF DATE FOR CHOCOLATE LIQUOR

Pursuant to the Defense Production Act of 1950 as amended by Defense Production Act Amendments of 1951 (Pub. Law 774, 81st Cong.; Pub. Law 96, 82nd Cong.), Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Amendment 22 to Ceiling Price Regulation 22 is hereby issued.

STATEMENT OF CONSIDERATIONS

Under the present provisions of Ceiling Price Regulation (CPR) 22 candy manufacturers who manufacture their own chocolate coatings from imported cocoa beans are permitted, by Appendix B, to figure the cost increases of those beans to them up to March 15, 1951. Candy manufacturers who buy chocolate coating containing any of the products listed in Appendix C, such as sugar or milk solids, may, under the provisions of section 21, figure the increased cost to them of that coating up to a current date.

However, those manufacturers who purchase what is known as chocolate liquor, a product made by pulverization of the cocoa bean and one which contains none of the products listed in Appendix C, are limited to figuring the cost increases of that product up to December 31, 1950. In view of the fact that the price of chocolate liquor has increased since December 31, 1950, the present provisions of CPR 22 have resulted in confusion in the industry and have, in particular, caused some manufacturers who purchase that product to be placed in a disadvantageous position.

Since chocolate liquor is used to make chocolate coating and since only about 6 percent of the chocolate coating used by candy manufacturers is purchased by them in the form of chocolate liquor, there is no reason to maintain these widely divergent cut-off dates for use in figuring the costs of those commodities. This amendment, therefore, by placing chocolate liquor in Appendix B, permits increases in the price of chocolate liquor (as well as in the price of the imported cocoa bean itself) to be computed up to March 15, 1951. Of course, the cost of chocolate coating containing any Appendix C commodity may still be calculated up to a current date.

AMENDATORY PROVISIONS

Appendix B of Ceiling Price Regulation 22 is amended by the addition of the following:

9. Chocolate liquor.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154)

Effective date. This amendment shall become effective August 15, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

AUGUST 15, 1951.

[F. R. Doc. 51-9853; Filed, Aug. 15, 1951; 12:12 p. m.]

Chapter VI—National Production Authority, Department of Commerce

[CMP Regulation No. 1, Direction 3 as Amended Aug. 14, 1951]

CMP REG. 1—BASIC RULES OF THE CONTROLLED MATERIALS PLAN

DIR. 3—RESTRICTIONS ON PLACING AUTHORIZED CONTROLLED MATERIAL ORDERS

This direction as amended under CMP Regulation No. 1 is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950, as amended. In the formulation of this direction, consultation with industry representatives has been rendered impracticable due to the need for immediate action and because the direction affects many different industries.

This amendment affects Dir. 3 to CMP Regulation No. 1 by substituting a new section 1. As so amended, Dir. 3 to CMP Regulation No. 1 reads as follows:

SECTION 1. (a) Subject to the limitations of section 17 (a) of CMP Regulation No. 1 and unless previously authorized in writing by NPA, no prime consumer who has received an allotment of controlled materials shall place orders calling for delivery of more than 35 percent of the quantity of controlled materials stated in such allotment during any one month of the quarter for which the said allotment is valid: *Provided, however,* That any prime consumer who has received an advance allotment of controlled materials, as provided in section 10 of CMP Regulation No. 1, may place orders calling for delivery of not in excess of 50 percent of the quantity of controlled materials stated in such advance allotment during any one month of the quarter for which the said advance allotment is valid.

(b) Notwithstanding the provisions of this direction, no person shall be required to reduce any delivery order below the minimum mill quantity specified in Schedule IV of CMP Regulation No. 1. Notwithstanding the provisions of this direction and of CMP Regulation No. 2, no person whose quarterly allotment or advance allotment of carbon steel is equal to or more than a carload lot shall be required to reduce his delivery order for such material below a carload lot.

(Sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154. Interpret or apply sec. 101, 64 Stat. 799, as amended; 50 U. S. C. App. Sup. 2071; sec. 101, E. O. 10161, Sept 9, 1950, 15 F. R. 6105, 3 CFR, 1950 Supp.; sec. 2, E. O. 10200, Jan. 3, 1951, 16 F. R. 61)

This direction as amended shall take effect on August 14, 1951.

NATIONAL PRODUCTION AUTHORITY,
MANLY FLEISCHMANN,
Administrator.

[F. R. Doc. 51-9803; Filed, Aug. 14, 1951; 4:37 p. m.]

[NPA Order M-62 as Amended August 14, 1951]

M-62—HORSEHIDES, HORSEHIDE PARTS, GOATSKINS, CABRETTAS, SHEEPSKINS, SHEARLINGS, AND KANGAROO SKINS

This order as amended is found necessary and appropriate to promote the national defense and is issued pursuant to the authority of section 101 of the Defense Production Act of 1950, as amended. In the formulation of this order as amended consultation with industry representatives has been rendered impracticable due to the necessity for immediate action.

This order as now amended embodies the amendments contained in Amendment No. 1 of June 29, 1951, and Amendment No. 2 of August 1, 1951. In addition, the following new changes have been made: The second sentence of the opening paragraph has been deleted and a new sentence substituted in its stead; certain portions of section 1 have been deleted; portions of paragraphs (b) and (c) of section 2 have been deleted; paragraph (q) of section 2 has been deleted and the subsequent paragraphs in that section redesignated accordingly; sections 3 and 4 have been deleted and the subsequent sections of the order renumbered accordingly; and certain changes have been made in section 4 (as renumbered). As so amended, NPA order M-62 reads as follows:

Sec.

Sec.
4. Exemption.
5. Reports.
6. Records.
7. Audit and inspection.
8. Applications for adjustment or exception.
9. Communications.
10. Violations.

AUTHORITY: Sections 1 to 10 issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154. Interpret or apply sec. 101, 64 Stat. 779, as amended; 50 U. S. C. App. Sup. 2071; sec. 101, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105, 3 CFR, 1950 Supp.; sec. 2, E. O. 10200, Jan. 3, 1951, 16 F. R. 61.

SECTION 1. *What this order does.* The purpose of this order is to conserve and to provide for an equitable distribution, through the normal channels of distribution, of the hides and skins affected hereby so as best to serve the interests of national defense. This order limits the number of horsehides, horsehide parts, goatskins (including kidskins), cabrettas, sheepskins (including lambskins), shearlings, and kangaroo skins which a tanner may put into process or a contractor may cause to be put into process. While percentage limitations are established for the period from May 1, 1951, to July 31, 1951, only, it is the present intention of NPA to establish percentage limitations for subsequent periods. This order also calls for reports on the number of hides and skins subject to such percentage limitations, which were put into the tanning process during the calendar year 1950.

SEC. 2. *Definitions.* As used in this order:

(a) "Person" means any individual, corporation, partnership, association, or any other organized group of persons, and includes agencies of the United States or any other government.

(b) "Tanner" means a person engaged in the business of tanning, dressing, or similarly processing hides or skins who, during the 12-month period commencing January 1, 1950, put into process 12,000 or more goatskins or sheepskins, or 1,200 or more horsehides, horsehide fronts, horsehide butts, horsehide shanks, cabrettas, shearlings, or kangaroo skins, or who, in any calendar month after the effective date of this order, puts into process any such hides or skins in quantities equal to one-twelfth or more of the amounts specified in this paragraph with respect to each type of hide or skin.

(c) "Contractor" means a person engaged in the business of causing hides and skins to be tanned, dressed, or similarly processed, for his account in any tannery not owned or controlled by him, who, during the 12-month period commencing January 1, 1950, caused to be put into process for his account 12,000 or more goatskins or sheepskins, or 1,200 or more horsehides, horsehide fronts, horsehide butts, horsehide shanks, cabrettas, shearlings, or kangaroo skins, or who, in any calendar month after the effective date of this order, causes to be put into process for his account any such hides or skins in quantities equal to one-twelfth or more of the amounts specified in this paragraph with respect to each type of hide or skin.

(d) "Horsehide" means the hide or skin of a horse, colt, mule, ass, donkey, or pony, except dry pony hides to be processed for furs.

(e) "Horsehide front" means the forepart of the hide or skin of a horse, colt, mule, ass, donkey, or pony commercially known in the trade as a "front," whether or not still attached to other parts of the hide or skin.

(f) "Horsehide butts" and "horsehide shanks" mean those parts of a horse commercially so known, whether or not still attached to other parts of the horsehide.

(g) "Goatskin" means the skin of a goat or kid in the raw or in the pickle, except when processed for fur purposes.

(h) "Cabretta" means the skin of a hair sheep in the raw or in the pickle.

(i) "Sheepskin" means the skin of a wool sheep or wool lamb, in the raw or in the pickle, and includes slats.

(j) "Slat" means a sheepskin imported into the continental United States in the dried, untanned condition, which has no wool or hair, or which has wool or hair less than one-fourth of an inch in length, such wool or hair lacking any commercial value.

(k) "Shearling" means any sheepskin which has been sheared shortly before slaughter, on which the wool remains, and which is to be used for leather or for fur purposes (including mouton).

(l) "Kangaroo skin" means the skin of an Australian or Tasmanian kangaroo or wallaby in the hair or in the pickle, except when processed for fur purposes.

(m) "Put into process" means: (1) In the case of raw skins or hides, the first step in the conversion of such skins or hides into leather at a tannery or in the conversion of mouton into fur. (2) In the case of semitanned skins, the first step in the conversion of such skins into leather. (3) In the case of pickled skins, the first step beyond the pickle in the conversion of such skins into leather.

(n) "Raw skins or hides" means skins or hides from which the hair or wool has not been removed.

(o) "Semitanned skins" means skins that have been imported in a tanned but not a finished condition, including skins imported "in the rough," in the crust," "in the white," "in the blue," or "in the pearl."

(p) "Pickled skins" means skins from which the hair or wool has been removed and which have been pickled in a salt or other solution for preservation prior to tanning.

(q) "Base period" means the 12-month period ending December 31, 1950.

(r) "NPA" means National Production Authority.

SEC. 3. *Limitations on processing of hides and skins.* (a) Unless specifically directed by NPA no tanner shall put into process and no contractor shall cause to be put into process during the period from May 1, 1951, to September 30, 1951, a total number of any of the following types of hides, parts, or skins in excess of 600 percent of the monthly average number of each such type put into process by him, or for his account, during the base period:

Horsehides	Cabrettas
Horsehide fronts	Sheepskins
Horsehide butts	Shearlings
Horsehide shanks	Kangaroo skins
Goatskins	

In the case of each type of skin listed above, the ratio of raw, semi-tanned, and pickled skins, respectively, to the total number of skins of such type so put into process, shall be the same as the ratio of raw, semi-tanned, and pickled skins, respectively, to the total number of skins of such type put into process during the base period.

(b) Raw skins shall not be processed beyond the pickle stage, whether or not they are actually processed through the pickle stage, except in the same proportion as they were so processed during the base period.

SEC. 4. *Exemption.* The provisions of paragraph (a) of section 3 of this order shall not apply to the operations of a wool puller.

SEC. 5. *Reports.* (a) Every tanner and contractor must report the number of goatskins, horsehides, horsehide fronts, horsehide butts, horsehide shanks, cabrettas, sheepskins, shearlings, or kangaroo skins, put into process by him or for his account, as the case may be, during the calendar year 1950, by completing and filing with NPA report Form NPAF–73 on or before June 10, 1951.

(b) Every contractor shall report to NPA each month on Form NPAF–72 his wettings and raw stock, and every tanner shall report to NPA each month on such form, his wettings and raw stock, if any, and his leather production, for each calendar month commencing with the month of May 1951, as well as such other information as may be called for by such form. Such form shall be filed with NPA on or before June 10, 1951, and on or before the 10th day of each month thereafter.

(c) Persons subject to this order shall make such records and submit such other reports to NPA as it shall require, subject to the terms of the Federal Reports Act of 1942 (5 U. S. C. 139–139F).

SEC. 6. *Records.* Each person participating in any transaction covered by this order shall retain in his possession for at least 2 years records of receipts, deliveries, inventories, and use, in sufficient detail to permit an audit that determines for each transaction that the provisions of this order have been met. This does not specify any particular accounting method and does not require alteration of the system of records customarily maintained, provided such records supply an adequate basis for audit. Records may be maintained in the form of microfilm or other photographic copies instead of the originals.

SEC. 7. *Audit and inspection.* All records required by this order shall be made available at the usual place of business where maintained for inspection and audit by duly authorized representatives of NPA.

SEC. 8. *Applications for adjustment or exception.* Any person affected by any provision of this order may file with NPA

a request for adjustment or exception upon the ground that his business operation was commenced during the base period or prior to the effective date of this order, that any such provision works an undue or exceptional hardship upon him not suffered generally by others in the same trade or industry, or that its enforcement against him would not be in the interest of national defense or in the public interest. In examining requests for adjustment which claim that the public interest is prejudiced by the application of any provision of this order, consideration will be given to the requirements of public health and safety, civilian defense, and dislocation of labor and resulting unemployment that would impair the defense program. Each such request shall be in writing, shall set forth all pertinent facts, the nature of the relief sought, and the justification therefor.

SEC. 9. *Communications.* All communications or reports concerning this order shall be addressed to the National Production Authority, Washington 25, D. C. Ref: M-62.

SEC. 10. *Violations.* Any person who wilfully violates any provision of this order or any other order or regulation of the NPA, or who wilfully conceals a material fact or furnishes false information in the course of operation under this order, is guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both. In addition, administrative action may be taken against any such person to suspend his privilege of making or receiving further deliveries of materials or using facilities under priority or allocation control and to deprive him of further priorities assistance.

NOTE: All reporting and record-keeping requirements of this order have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

This order shall take effect on August 4, 1951.

NATIONAL PRODUCTION AUTHORITY,
MANLY FLEISCHMANN,
Administrator.

[F. R. Doc. 51-9804; Filed, Aug. 14, 1951; 4:37 p. m.]

Chapter IX—Petroleum Administration for Defense, Department of the Interior

[PAD Order No. 2]

LIMITATION ON THE USE OF NATURAL GAS

This order is found necessary and appropriate to promote the national defense in that increased gas requirements for national defense and other purposes and scarcity of materials for the construction of pipe lines and other gas facilities have impaired and threaten to impair the adequacy of gas deliveries to defense industries and for essential civilian uses. In the formulation of this order, there has been consultation with industry representatives, including trade association representatives, and consideration has been given to their recommendations.

Sec.
1. What this order does.
2. Definitions.
3. Limitations on deliveries of natural gas.
4. Changes in areas to which limitations are applicable.
5. Applications.
6. Records and reports.
7. Communications.
8. Defense against claims for damages.
9. Violations.

AUTHORITY: Sections 1 to 9 issued under sec. 704, 64 Stat. 816, as amended; 50 U. S. C. App. Sup. 2154. Interpret or apply sec. 101, 64 Stat. 799, as amended; 50 U. S. C. App. Sup. 2071, sec. 101, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105, sec. 2, E. O. 10200, Jan. 3, 1951, 16 F. R. 61.

SECTION 1. *What this order does.* In order to prevent shortages of gas needed for defense production and essential civilian uses, this order restricts expansion of natural gas markets by imposing limitations on the delivery of natural gas for space heating and large volume use.

SEC. 2. *Definitions.* As used in this order:

(a) "Person" means any individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative of the foregoing, and includes the United States or any agency thereof, or any other Government, or any of its political subdivisions, or any agency of any of the foregoing.

(b) "Natural gas" means either natural gas unmixed, or any mixture of natural and any other gas which mixture has a heat value in excess of 600 B. t. u. per cubic foot measured in accordance with the usual standards used by the natural gas seller.

(c) "Natural gas seller" means any person (including a pipeline company) selling natural gas in any of the forty-eight States or the District of Columbia for consumption by the purchaser.

(d) "Affiliate." Two persons shall be considered "affiliates" if one owns, controls or holds with power to vote in excess of 50 percent of the voting stock of the other, or if more than 50 percent of the voting stock of each is owned, controlled, or held with power to vote by the same person.

(e) "Standby facilities" means equipment in serviceable operating condition designed to use oil, electricity, coal or other fuel to replace natural gas.

(f) "Central space heating equipment" means one or more pieces of equipment used for the purpose of raising atmospheric temperature in any structure and intended, because of its or their size, type, or location or number to heat more than one room, or to heat a room having more than 400 square feet of floor space.

(g) "Large volume consumer" means a person whose consumption of natural gas purchased from a natural gas seller is expected to equal or exceed 500 therms on any day.

(h) "State commission" means the regulatory body of the State, or the District of Columbia, having jurisdiction over gas public utility operations in the State, or the District of Columbia, respectively, or, in the absence of such a body, any public regulatory body of a political subdivision of the State having regulatory jurisdiction over gas public utility operations within such political subdivision.

(i) "Community" means one or more contiguous and adjoining urban areas served by a single natural gas seller by means of a single local distribution system.

SEC. 3. *Limitation on deliveries of natural gas.* The limitations provided in this section are subject to the provisions of section 704 of the Defense Production Act of 1950, as amended. Certifications pursuant to that section shall be filed with the Petroleum Administration for Defense Department of the Interior. Washington 25, D. C. Upon receipt of such a certification, the Petroleum Administration for Defense will notify each natural gas seller in the jurisdiction to which the certification applies, and will publish notice of such certification in the FEDERAL REGISTER. The limitations of this section shall cease to apply to deliveries by any natural gas seller in a jurisdiction for which a certification has been filed upon receipt by such seller of notification by the Petroleum Administration for Defense of the filing or on the date of the first publication of the certification in the FEDERAL REGISTER, whichever is the earlier.

(a) No natural gas seller shall deliver natural gas to a large volume consumer for the operation of any gas-fired equipment in an area listed in Schedule A, and no large volume consumer shall accept such delivery, unless

(1) Such equipment was installed prior to August 22, 1951, or

(2) The natural gas seller had agreed in writing prior to August 22, 1951, to make the delivery of natural gas, if to a new customer, or to increase its delivery of natural gas, if to an existing customer, for the operation of such equipment, or

(3) The equipment replaces other gas-fired equipment, using within 5 percent of the same volume of gas, or

(4) Such delivery of natural gas is fully interruptible at the request of the natural gas seller and neither the natural gas seller nor any interconnected affiliate thereof nor any natural gas supplier of such seller operates underground storage, or

(5) Such delivery of natural gas is to be used for lease operations or well drilling, or

(6) The natural gas seller has facilities for manufacturing gas in sufficient volume and of a heat content adequate to meet, on a sustained basis, all of its requirements for gas, and certifies in writing to the Petroleum Administration for Defense that such facilities are in operating condition and that such seller has adequate supplies to operate, and will operate, such facilities continuously if so requested by the Petroleum Administration for Defense, or

(7) Such delivery has been approved by the Petroleum Administration for Defense.

(b) No natural gas seller shall deliver natural gas in an area listed in Schedule

A for the operation of central space heating equipment installed subsequent to August 22, 1951, and no person shall accept such delivery, unless.

(1) The total number of such deliveries commenced by the natural gas seller in any community during the twelve months following August 22, 1951, does not exceed 1 percent of the natural gas seller's customers on August 22, 1951, in that community and such deliveries are commenced in such order as may be approved by the appropriate State commission, or

(2) The equipment replaces other central space heating equipment, using within 5 percent of the same volume of gas, or

(3) The central space heating equipment, if in a new structure, was specified in a written construction contract for the structure and work on the foundation under the new structure was commenced prior to August 22, 1951, or

(4) In the case of a conversion from another fuel to gas, work on such conversion was commenced prior to August 22, 1951, or

(5) The natural gas seller had entered into a written agreement prior to August 22, 1951, to deliver natural gas for the operation of the central space heating equipment during the 1951–52 heating season, or

(6) Such delivery of natural gas is part of the consideration for the granting of a right-of-way, or

(7) The natural gas seller has facilities for manufacturing gas in sufficient volume and of a heat content adequate to meet, on a sustained basis, all of its requirements for gas, and certifies in writing to the Petroleum Administration for Defense that such facilities are in operating condition and that such seller has adequate supplies to operate, and will operate, such facilities continuously if so requested by the Petroleum Administration for Defense, or

(8) The central space heating equipment was completely installed or converted to the use of gas during the twenty-four month period following the date of commencement of natural gas service in any community which previously had not had any gas distribution service or which had had distribution service of other than natural gas to fewer than 5,000 customers at the time of the commencement of natural gas service in that community, or

(9) The central space heating equipment was completely installed or converted to the use of gas during the twenty-four month period following the date of commencement of natural gas service in a community which had previously had distribution service of other than natural gas to 5,000 or more customers: *Provided,* That central space heating customers shall not be added during such period, or any portion thereof subsequent to the effective date of this order, at an annual rate in excess of 5 percent of the number of gas customers served in such community by the natural gas seller, or its predecessor, at the time of commencement of natural gas service.

(Each separate apartment or other similar residential unit and each separately operated commercial or industrial enterprise, in a multiple-unit building or development which building or development is served through a single meter, shall be considered as a separate "delivery" or "customer" in applying subparagraphs (1) and (9) of this paragraph.)

(c) No natural gas seller shall deliver natural gas, in an area listed in Schedule A, for the operation of central space heating equipment or to a large volume consumer for the operation of any gas-fired equipment, and no person shall accept such delivery, if the delivery or acceptance is prohibited by a State or local limitation on the delivery or the use of gas.

SEC. 4. *Changes in areas to which limitations are applicable.* From time to time as conditions warrant, Schedule A will be revised by the addition of new areas or the elimination of already listed areas. Any natural gas seller, any person from whom a natural gas seller purchases its natural gas supplies and any State commission may request the Petroleum Administration for Defense to add new areas to Schedule A.

SEC. 5. *Applications.* (a) Application may be made by a natural gas seller, operating in an area to which section 3 of this order is applicable, in writing to the Petroleum Administration for Defense, Department of the Interior, Washington 25, D. C., Ref: PAD Order No. 2, for an exemption from or for a modification of all or a part of the limitations imposed by this order, for a period not in excess of twelve months. Such application shall include:

(1) A statement of the precise exemption or modification desired;

(2) A statement of the gas sales during the preceding year made from Applicant's system or that portion thereof for which exemption or modification is requested;

(3) A statement of estimated gas requirements for the period of 2 years following the date of the application;

(The data furnished under subparagraphs (2) and (3) of this paragraph, should show peak day, monthly and annual figures, broken down between firm and interruptible service and by classes of customers, and also should show the number of new space heating customers proposed to be served.)

(4) A statement of the supply of gas, by sources, available to meet such requirements;

(5) A statement from Applicant's natural gas supplier, if such supplier is a pipeline company, showing the natural gas available from the supplier to meet Applicant's requirements;

(6) Any other information which in Applicant's opinion will support the application;

(7) A recommendation or recommendations, in respect of the application, by the State commission or State commissions in whose geographic jurisdiction the exemption or modification will apply, together with a statement of the facts supporting such recommendation or recommendations.

(The recommendation and statement of supporting facts must be subscribed by an appropriate officer of the State commission. If the recommendation and statement of supporting facts of a State commission cannot be obtained, such fact shall be stated, together with the reasons therefor.)

(b) Application, pursuant to section 3 (a) (7), may be made by a natural gas seller, operating in an area to which section 3 of this order is applicable, in writing to the Petroleum Administration for Defense, Department of the Interior, Washington 25, D. C., Ref.: PAD Order No. 2, for approval of delivery of natural gas to a large volume consumer. Such application shall state:

(1) The name, address and business of the large volume consumer;

(2) Whether it is feasible to use another fuel, and, if not, the reasons therefor;

(3) The daily, monthly and annual volume of gas proposed to be delivered;

(4) The facts showing Applicant's ability to deliver such volume, and the effect thereof upon Applicant's other customers and Applicant's underground storage operations;

(5) The manufacturing or other process or operation in which the gas will be used, including the product or products of such process or operation;

(6) The type of equipment in which the gas will be used;

(7) Why standby facilities cannot be used to an extent which will permit the service to be fully interruptible;

(8) Whether the proposed delivery of natural gas requires authorization by a State commission or by the Federal Power Commission. If such authorization is required, a copy of the order or orders, by which it is granted, should be attached;

(9) All other information which in Applicant's opinion justifies the delivery in the interest of national defense.

(c) If a natural gas seller notifies the Petroleum Administration for Defense on or before August 22, 1951, that it will, prior to September 15, 1951, apply, pursuant to paragraph (a) of this section, for exemption from or modification of all or a part of the limitations of this section, none of said limitations shall apply to such natural gas seller until September 15, 1951, and any natural gas seller making such application prior to September 15, 1951, shall continue to be exempt from the limitations of this section until such time as the Petroleum Administration for Defense acts on such application for exemption or modification.

SEC. 6. *Records and reports.* (a) Each natural gas seller covered by this order shall retain in his possession for at least two years records in sufficient detail to permit an audit to determine that the provisions of this order have been met. This does not specify any particular accounting method and does not require alteration of the system of records customarily maintained, provided such records supply an adequate basis for audit. Records may be maintained in the form of microfilm or other photographic copies instead of the originals.

(b) All records required by this order shall be made available, at the usual place of business where maintained, for inspection and audit by duly authorized representatives of the Petroleum Administration for Defense.

(c) Natural gas sellers subject to this order shall keep such records and submit such reports to the Petroleum Administration for Defense as it shall require in addition to those required herein, subject to the terms of the Federal Reports Act of 1942 (56 Stat. 1078, 5 U. S. C. 139–139f).

(d) Each natural gas seller operating in an area listed in Schedule B shall make a comprehensive report to the Petroleum Administration for Defense on May 1 of each year, in such form as the seller may find appropriate, showing its peak day and annual market requirements by classes of customers for the ensuing twelve months and its ability to supply such requirements. Sources of gas supply must be shown, together with supporting statements by any pipeline companies supplying the natural gas seller with natural gas.

SEC. 7 *Communications.* All communications concerning this order shall be addressed to the Petroleum Administration for Defense, Department of the Interior, Washington 25, D. C., Ref: PAD Order No. 2.

SEC. 8. *Defense against claims for damages.* No person shall be held liable for damages or penalties for any default under contract or order which shall result directly or indirectly from compliance with this order of the Petroleum Administration for Defense, or any direction, directive, or other instruction issued pursuant thereto, notwithstanding that such order, direction, directive or instruction shall thereafter be declared by judicial or other competent authority invalid.

SEC. 9. *Violations.* Any person who wilfully violates any provision of this order, or who wilfully conceals a material fact or furnishes false information in the course of operation under this order, is guilty of a crime and upon conviction may be punished by fine or imprisonment, or both.

This order shall take effect on August 22, 1951.

Dated: August 14, 1951.

BRUCE K. BROWN,
Deputy Administrator,
Petroleum Administration for Defense.

SCHEDULE A

Areas subject to limitations contained in PAD Order No. 2.
Connecticut.
Delaware.
District of Columbia.
Kentucky (only those portions served with gas supplied by a subsidiary of The Columbia Gas System, Inc., or by Louisville Gas & Electric Co.).
Maryland.
Massachusetts.
Michigan.
New Hampshire.
New Jersey.
New York.
Ohio.
Pennsylvania.
Rhode Island.
Virginia.
West Virginia (only those portions served with gas supplied by a subsidiary of The Columbia Gas System, Inc.).
Wisconsin.

SCHEDULE B

Alabama.
Connecticut.
Delaware.
District of Columbia.
Florida.
Georgia.
Illinois.
Indiana.
Iowa.
Kentucky.
Maryland.
Massachusetts.
Michigan.
Minnesota.
Missouri.
Nebraska.
New Hampshire.
New Jersey.
New York.
North Carolina.
Ohio.
Pennsylvania.
Rhode Island.
South Carolina.
South Dakota.
Tennessee.
Virginia.
West Virginia.
Wisconsin.

[F. R. Doc. 51-9818; Filed, Aug. 15, 1951; 8:47 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 204—DANGER ZONE REGULATIONS

GULF OF MEXICO OFF MATAGORDA PENINSULA AND MATAGORDA ISLAND, TEX.

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U. S. C. 1), and Chapter XIX of the Army Appropriations Act of July 9, 1918 (40 Stat. 892; 33 U. S. C. 3), § 204.162, establishing and governing navigation within Air Force practice gunnery, bombing, and rocket firing ranges in the Gulf of Mexico off Matagorda Peninsula and Matagorda Island, Texas, is hereby prescribed, effective on and after its publication in the FEDERAL REGISTER due to the urgent necessity on the part of the Air Force for commencing operations at the earliest possible time, as follows:

§ 204.162 *Gulf of Mexico off Matagorda Peninsula and Matagorda Island, Tex.; Air Force practice gunnery, bombing, and rocket firing ranges*—(a) *The danger zones*—(1) *Air-to-air gunnery range off Matagorda Peninsula.* An area approximately 59 statute miles long and 29 statute miles wide, with its northwest boundary generally parallel to and about 1[illegible] statute miles offshore, described as follows: Beginning at latitude 28°41′, longitude 95°17′; thence to latitude 28°21′, longitude 94°59′; thence to latitude 27°55′, longitude 95°52′; thence to latitude 22°16′, longitude 96°08; and thence to the point of beginning. This area will be used daily from sunrise to sunset, weather permitting, for air-to-air gunnery.

(2) *Aerial gunnery, bombing, and rocket firing range off Matagorda Island.* The waters of the Gulf of Mexico encompassed by an arc of a circle having a radius of five statute miles centered at latitude 28°17′, longitude 96°32′. This area will be used daily from sunrise to sunset, weather permitting, for air-to-ground gunnery, dive bombing, rocket firing, horizontal bombing, and firing at radio controlled target aircraft.

(b) *The regulations.* (1) Except in an emergency involving danger to life or property, no vessel shall enter or remain in either danger zone between sunrise and sunset unless authorized to do so in writing by the enforcing agency.

(2) Vessels making scheduled trips over prescribed routes will be given prior written permission to transit the danger zones by the enforcing agency. Vessels so authorized to transit the danger zones shall pass directly through without unnecessary delay and shall display such identification as may be required by the enforcing agency.

(3) The regulations in this section shall be enforced by the Commanding Officer, Bergstrom Air Force Base, Austin, Texas, and such agencies as he may designate.

[Regs. July 31, 1951, 800.2121–ENGWO] (Sec. 4, 28 Stat. 362 as amended; 33 U. S. C. 1. Interprets or applies 40 Stat. 892; 33 U. S. C. 3)

[SEAL] WM. E. BERGIN,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 51-9713; Filed, Aug. 15, 1951; 8:47 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Subchapter G—Exchanges

[Circular No. 1797]

PART 145—GENERAL REGULATIONS GOVERNING EXCHANGES

REVOCATION OF PART

Part 145, containing §§ 145.1 to 145.6 inclusive, outlining a procedure in connection with proposed exchanges of lands in grazing districts, under which the State and private owners may confer informally with field representatives of the Bureau of Land Management with respect to the various features involved in proposed exchanges, in advance of the filing of formal applications, is revoked in its entirety.

(R. S. 2478; 43 U. S. C. 1201)

R. D. SEARLES,
Acting Secretary of the Interior.

AUGUST 9, 1951.

[F. R. Doc. 51-9703; Filed, Aug. 15, 1951; 8:45 a. m.]

Appendix—Public Land Orders

[Public Land Order 741]

WISCONSIN

RESERVING CERTAIN PUBLIC LANDS IN CONNECTION WITH THE TOTOGATIC CONSERVATION AREA

Whereas the act of September 2, 1937, 50 Stat. 917 (16 U. S. C. 669–669j), provides for Federal aid to States in wildlife-restoration projects; and

Whereas the State of Wisconsin has established a Federal-aid wildlife-restoration project, and has acquired title

to certain lands in Sawyer County which are administered by the State of Wisconsin through its Conservation Department as the Totogatic Conservation Area; and

Whereas certain public land of the United States within the said project possesses wildlife value and could be administered advantageously in connection with the Totogatic Conservation Area; and

Whereas the act of March 10, 1934, as amended by the act of August 14, 1946, 48 Stat. 401, 60 Stat. 1080 (16 U. S. C. 661–666c), authorizes the Secretary of the Interior to cooperate with Federal, State, and other agencies in developing a nation-wide program of wildlife conservation and rehabilitation:

Now, therefore, by virtue of the authority vested in the President and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

Subject to valid existing rights, the following-described public land in Sawyer Colunty, Wisconsin, is hereby withdrawn from all forms of appropriation under the public-land laws, including the mining laws but not the mineral-leasing laws, and reserved under the jurisdiction of the Department of the Interior for use by the Conservation Department of the State of Wisconsin in connection with the Totogatic Conservation Area, under such conditions as may be prescribed by the Secretary of the Interior:

FOURTH PRINCIPAL MERIDIAN

T. 42 N., R. 9 W.,
Sec. 20, SW¼NE¼.

The area described contains 40 acres.

R. D. SEARLES,
Acting Secretary of the Interior.

AUGUST 9, 1951.

[F. R. Doc. 51-9705; Filed, Aug. 15, 1951; 8:45 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 7—STATIONS ON LAND IN THE MARITIME SERVICES

PART 8—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

MISCELLANEOUS AMENDMENTS

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 8th day of August 1951;

The Commission having under consideration the matter of amending certain sections of Parts 7 and 8 of its rules governing Stations on Land in the Maritime Services, and rules governing Stations on Shipboard in the Maritime Services, respectively, for the purpose of correcting minor editorial irregularities and omissions; and

It appearing, that the amendments will not change the substantive provisions of the sections involved, and, therefore, notice and public procedure thereon, as specified in sections 4 (a) and (c) of the Administrative Procedure Act are unnecessary;

It is ordered, That effective immediately, Parts 7 and 8 of the Commission's rules governing Stations on Land in the Maritime Services, and rules governing Stations on Shipboard in the Maritime Services, respectively, are amended as set forth below.

Released: August 9, 1951.

FEDERAL COMMUNICATIONS COMMISSION
[SEAL] T. J. SLOWIE,
Secretary.

1. Amend Part 8 of the Commission's rules governing Stations on Shipboard in the Maritime Services as follows:

a. Section 8.4 (p): Change "above-wave" to "above-water".

b. Section 8.5 (c): Change title from "*Classification*" to "*Specific classification.*"

Between the first two words "The classes" of the text, insert the word "specific".

After the words "maritime radiolocation service" add the parenthetical phrase "(including maritime radionavigation service)".

c. Section 8.34: In second sentence change the word "therein" to "thereon".

d. Section 8.37 (a): Change the word "therein" to "thereon".

e. Section 8.133 (c) (1): In the table, under emissions F1, F2, and F3 change, in each case, "35" to "30", "76" to "50", "156.35" to "156.25", and "162.05" to "157.45".

f. Section 8.303: Delete subparagraph indicator "(1)" and combine the text of paragraph (a) with that of subparagraph (1) so that paragraph (a) will read as follows:

(a) Unless prohibited by the terms of the station license or by other sections of this part relative to the limited use of a specifically designated frequency, each ship station shall, within the scope of its normal operations and without discrimination, acknowledge all calls directed to it and receive from stations operating in the maritime mobile service, all messages and communications which are addressed to the ship or to any person or persons on board and which are for termination on such ship.

Change subparagraph indicator "(2)" to paragraph indicator "(c)".

Paragraph (c) should be placed in its proper order after existing paragraph (b).

g. Section 8.330 (a) (3): In last sentence change "paragraph (e) of this section" to "subparagraph (5) of this paragraph".

h. Section 8.354 (c): Delete "the effective date of this section" and substitute therefor "July 23, 1951".

i. Section 8.360 (d) (1): Insert a comma between "governments" and "which".

j. Section 8.362 (c) (1): Delete the words "the involved ship station(s) while they are" and substitute therefor the words "each ship involved while such ship is".

k. Section 8.434: In the footnote referred to therein change the word "logs" to "records".

l. Section 8.525 (d): Between the words "operating" and "or" add the word "room".

(Sec. 4, 48 Stat. 1066 as amended; 47 U. S. C. 154. Interpret or apply sec. 303, 48 Stat. 1082; 47 U. S. C. 303)

2. Amend Part 7 of the Commission's rules governing Stations on Land in the Maritime Services as follows:

a. Section 7.6 (d): In the parenthetical phrase which reads "(including maritime radio navigation service)" change "radio navigation" to "radionavigation".

b. Section 7.206 (b) (6): Delete "the effective date of this section" and substitute therefor "July 23, 1951".

c. Section 7.304 (a): Delete "the effective date of this section" and substitute therefor "July 23, 1951".

d. Section 7.370 (a) (4): Add footnote designator "†" after "assigned frequency 156.8 Mc)" and append a footnote to read as follows:

† Pending further development of the use of very high frequencies, no watch is required to be maintained by limited coast stations or marine utility stations on shore under the existing provisions of Subpart G of this part.

e. Section 7.504 (a): In the footnote referred to therein change the word "logs" to "records", and the word "sign" to "signs".

(Sec. 4, 48 Stat. 1066 as amended; 47 U. S. C. 154. Interpret or apply sec. 303, 48 Stat. 1082; 47 U. S. C. 303)

[F. R. Doc. 51-9733; Filed, Aug. 15, 1951; 8:49 a. m.]

[Docket No. 9954]

PART 8—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

CORRECTION

On July 18, 1951, the Commission adopted certain amendments to Parts 7 and 8 of the Commission's rules and regulations, effective as of that date. These amendments were published in the FEDERAL REGISTER of July 27, 1951 (16 F. R. 7357–7358), except that part of Appendix I to the order containing an amendment to § 8.81 (c) of the rules was omitted. Attached is the amendment to § 8.81 (c).

Effective July 23, 1951, the Commission recodified § 8.81 (c) as § 8.354 (a) (1) of the rules.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

APPENDIX I

2. Part 8, Rules Governing Ship Service, is amended in the following particulars:

Section 8.81 (c) is amended to read as follows with regard to the following frequencies:

(c) To ship telephone stations for communication with coastal-harbor stations:

2110 [4a]	Boston, Mass. San Francisco, Calif. Eureka, Calif. Galveston, Tex.
2118	Miami, Fla. Great Lakes (U. S. and Canada).
2126 [4a]	Seattle, Wash. New York, N. Y. Tampa, Fla. (day only). Los Angeles or San Diego Calif. (day only).
2134	Galveston, Tex. Hawaiian Islands. San Juan, P. R.
2142 [4a]	Norfolk, Va. Quantico, Va. San Francisco and Eureka, Calif. (day only).
2206 [4a]	New Orleans, La. Portland, Oreg. Astoria, Oreg. San Diego or Los Angeles, Calif. (day only).
2158 [4a]	Tampa, Fla. Great Lakes (U. S. only). Boston, Mass. (day only.)
2166 [4a]	Wilmington, Del. New York, N. Y. New Orleans, La. (day only).
2174 [4a]	Charleston, S. C. Jacksonville, Fla. Los Angeles, Calif. Seattle, Wash. (day only).
2572	Mobile, Ala.
2198 [4a]	New York, N. Y. Hawaiian Islands. Miami Beach, Fla. (day only).

[4a] The use, when assigned, of the frequency 2110 kilocycles designated for communication with Galveston, Texas, and the use, when assigned, of the frequencies designated for use on "day only" basis, is authorized only upon the condition that no harmful interference will be caused to any government station operating on the same or adjacent frequencies; the frequencies 2142, 2198, and 2206 kilocycles where designated for use on a "day only" basis, shall, when assigned, be used subject to interference by government stations.

(Sec. 4, 48 Stat. 1066, as amended; 47 U. S. C. 154. Interprets or applies sec. 303, 48 Stat. 1082; 47 U. S. C. 303)

[F. R. Doc. 51-9732; Filed, Aug. 15, 1951; 8:49 a. m.]

TITLE 50—WILDLIFE

Chapter I—Fish and Wildlife Service, Department of the Interior

Subchapter F—Alaska Commercial Fisheries

PART 119—SOUTHEASTERN ALASKA AREA, EASTERN DISTRICT, SALMON FISHERIES

CLOSED WATERS

Basis and purpose. In permitting fishing in the waters on the eastern side of Stephens Passage and Frederick Sound, from the latitude of Midway Island to Horn Cliffs, as announced by the Director of the Fish and Wildlife Service on July 31, 1951 (16 CFR 7684), the waters of Port Houghton and Windham Bay were not specifically closed, thus endangering the important runs in those bays to overfishing.

Therefore, in accordance with the authority cited, the following amendment is adopted effective immediately and continuing until the close of the specified open season at 6 p. m. September 1, 1951:

1. Section 119.10 is amended by adding the following paragraphs:

(a) Port Houghton, indenting mainland: All waters in Sanborn Canal .

(b) Windham Bay, indenting mainland: All waters of the bay east of 133 degrees, 21 minutes 57 seconds west longitude.

(Sec. 1, 43 Stat. 464, as amended; 48 U. S. C. 221)

ALBERT M. DAY,
Director.

AUGUST 10, 1951.

[F. R. Doc. 51-9702; Filed, Aug. 15, 1951; 8:45 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Bureau of Internal Revenue

[26 CFR Part 40]

EXCESS PROFITS TAXES: TAXABLE YEARS ENDING AFTER JUNE 30, 1950

NOTICE OF PROPOSED RULE MAKING

Amendment of Regulations 130 to provide regulations under sections 461 through 465 (Part II) of the Excess Profits Tax Act of 1950.

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Commissioner of Internal Revenue, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 62 of the Internal Revenue Code (53 Stat. 32; 26 U. S. C. 62).

[SEAL] JOHN B. DUNLAP,
Commissioner of Internal Revenue.

In order to conform Regulations 130 (26 CFR, Part 40) to Part II of the Excess Profits Tax Act of 1950, approved January 3, 1951, which part, consisting of sections 461 through 465, is set forth in Regulations 130 immediately after § 40.458–8, such regulations are hereby amended as follows:

PARAGRAPH 1. There is inserted immediately after section 461, the following:

§ 40.461–1 *Purpose and scope of Part II.* (a) The term "Part II" when used in the regulations in this part, means sections 461 through 465. Part II provides rules applicable to the use of the excess profits credit based on income and the method of computing such credit, in the case of "acquiring corporations" and of "component corporations". An acquiring corporation is a domestic corporation which has acquired property from a domestic corporation, partnership, or sole proprietorship in a transaction meeting the requirements set forth in section 461 (a), which transaction is sometimes referred to in the regulations in this part as a "Part II transaction". Each corporation, partnership, or sole proprietorship the properties of which are acquired by a corporation in a transaction described in section 461 (a) is designated a component corporation of the acquiring corporation. Furthermore, special rules are provided for the case in which an acquiring corporation later becomes a component corporation of another acquiring corporation. A foreign corporation cannot be an acquiring corporation and neither a foreign corporation, a foreign partnership, nor a foreign sole proprietorship can be a component corporation.

(b) Part II provides the rules for determining the base period experience and the capital changes of the transferee corporation by reference to the income experience and the capital changes of the transferor. For this purpose, Part II treats an acquiring corporation which was not actually in existence for part or all of its base period as having been in existence and having had taxable years for the period during which its component corporation was actually in existence. Special rules are provided for applying section 435 (e), 442, 443, 444, 445 or 446. Part II is also applicable to component corporations.

(c) Every corporation which is a party to a Part II transaction, whether as an acquiring corporation or as a component corporation, must compute its excess profits credit based on income under the provisions of Part II. However, in certain cases specifically set forth in section 462 (b), (c), and (d), the average base period net income of an acquiring corporation determined under the general average method of section 435 (d), under the growth alternative of section 435 (e), or under the alternative provided by section 442 (c) with respect to certain abnormalities, may be determined under Part II either with or without reference to the recomputation of excess profits net income under Part II, depending upon whichever produces the lesser excess profits tax. No similar alternative is available in the case of a component corporation or in the case of an acquiring corporation computing its average base period net income under an alternative method provided in section 442 (d), 443, 444, 445 or 446. In any case in which the determination of the average base period net income of the acquiring corporation is made without reference to the recomputation of excess profits net income under Part II, the base period capital addition and the net capital addition or reduction of the acquiring corporation shall not be adjusted under Part II.

§ 40.461–2 *Acquiring corporations.* (a) The types of transactions whereby a corporation becomes an acquiring corporation are specified in section 461 (a). In addition to statutory mergers and consolidations and the acquisition of property in a complete liquidation in which gain or loss is not recognized because of the provisions of section 112

(b) (6), only the following types of transactions are included:

(1) Under section 461 (a) (1) (A), the acquisition by one corporation, in exchange in whole or in part for all of its stock (except qualifying shares) of all classes, of substantially all the properties of another corporation. See section 112 (g) (1) (D).

(2) Under section 461 (a) (1) (B), the acquisition by one corporation, in exchange solely for all or a part of its voting stock, of substantially all the properties of another corporation; but, in determining whether the exchange is solely for voting stock, the assumption by the acquiring corporation of a liability of the other, or the fact that property acquired is subject to a liability, shall be disregarded. See section 112 (g) (1) (C).

(3) Under section 461 (a) (1) (C), the acquisition before December 1, 1950, by one corporation of properties of another corporation solely as paid-in surplus or as a contribution to capital in respect of voting stock of the acquiring corporation owned by the transferor corporation; but, in determining whether the acquisition is solely as paid-in surplus or as a contribution to capital, the assumption by the acquiring corporation of a liability of the other, or the fact that property acquired is subject to a liability, shall be disregarded. In this type of transaction the transferor corporation must be forthwith completely liquidated pursuant to the plan under which the transfer of properties was made and the transaction of which the transfer is a part must have the effect of a statutory merger or consolidation.

(4) Under section 461 (a) (1) (D), the acquisition of substantially all the properties of a partnership in an exchange to which section 112 (b) (5), or so much of section 112 (c) or (e) as refers to section 112 (b) (5), is applicable. For the purpose of this paragraph, a business owned by a sole proprietorship shall be considered as owned by a partnership.

(5) Under section 461 (a) (1) (E), the acquisition of a part, as distinguished from all or substantially all, of the properties of a corporation (other than a corporation exempt under section 101) or of a partnership in an exchange, not otherwise described in this section or section 461 (a), to which section 112 (b) (4) or 112 (b) (5), or so much of section 112 (c) or (e) as refers to section 112 (b) (4) or 112 (b) (5), is applicable. Types of transactions under section 461 (a) (1) (E) include: (i) The transfer by the component corporation of a part of its properties to an acquiring corporation and the retention of the remaining part by the component corporation; (ii) The transfer of all or substantially all of the properties of a component corporation to two or more separate acquiring corporations; and (iii) The transfer of part of the properties to two or more separate acquiring corporations and the retention of the remaining part by the component corporation. A transaction which qualifies as a Part II transaction without regard to section 461 (a) (1) (E), is not a transaction described in section 461 (a) (1) (E) for the purpose of any special rule under Part II pertaining to transactions described in section 461 (a) (1) (E).

(b) The types of transactions set forth in section 461 (a), other than those set forth in section 461 (a) (1) (C), either are embraced within the definition of a reorganization contained in section 112 (g) (1), are transfers to a controlled corporation within the meaning of section 112 (b) (5) and related sections, or are complete liquidations within the meaning of section 112 (b) (6). Since Part II applies only to cases where there is a sufficient continuity of interest to justify treating a corporation which has acquired the assets of another corporation, a partnership, or a business owned by a sole proprietorship, as standing in the place of its predecessor, such transactions must satisfy all the requirements of the regulations prescribed under section 112 with respect to such transactions in order that the transferee corporation may be treated as an acquiring corporation.

§ 40.461–3 *Component corporations*—(a) *In general*—(1) *Section 461 (c) (1).* If a corporation is a component corporation in a transaction described in section 461 (a) (other than a transaction described in section 461 (a) (1) (E)), its base period experience for the period before the day after such transaction is made available to the acquiring corporation in such transaction or to an acquiring corporation of which the first acquiring corporation is a component corporation. If such component corporation remains in existence, it will not (after the transaction) receive any benefit from its experience on the day of and prior to such transaction, nor can its experience on the day of and prior to such transaction be made available to another acquiring corporation in a subsequent Part II transaction involving such component corporation, regardless of whether the first acquiring corporation actually utilizes such experience. However, the base period experience of the component corporation occurring after such first transaction may be available to another acquiring corporation in a subsequent Part II transaction involving such component corporation. The same rules are applicable to each successive Part II transaction described in section 461 (a) (other than a transaction described in section 461 (a) (1) (E)). Section 461 (c) (1) applies to all such types of Part II transactions, whether or not complete liquidation of the component corporation is specifically required in connection therewith.

(2) *Section 461 (c) (3).* If a corporation is a component corporation in a transaction described in section 461 (a) (1) (E), its base period experience for the period before the day after such transaction, to the extent allocable to the properties transferred, is made available to the acquiring corporation in such transaction or to an acquiring corporation of which the first acquiring corporation is a component corporation. If the component corporation remains in existence, it will not (after the transaction) receive any benefit from that portion of its base period experience which is made available to the acquiring corporation, regardless of whether the acquiring corporation actually utilizes such experience. Furthermore, only that part of the experience which is not made available to the acquiring corporation may be available to another acquiring corporation in a subsequent Part II transaction involving such component corporation. However, any part of the base period experience of the component corporation occurring after such first transaction may be available to another acquiring corporation in a subsequent Part II transaction involving such component corporation. The same rules are applicable to each successive Part II transaction described in section 461 (a) (1) (E).

(b) *Rules for application of section 461 (c).* (1) For taxable years of the component corporation beginning after the Part II transaction (unless such transaction is described in section 461 (a) (1) (E), in which case see subparagraphs (3) and (4) of this paragraph), the excess profits credit based on income of the component corporation shall be determined without regard to its base period experience for the period ending with the day of the Part II transaction and without regard to the capital changes of the component corporation occurring before such transaction. Thus, in such cases, any computations which section 435 (f), relating to the base period capital addition, requires to be made as of a time preceding the transaction shall, instead, be made as of the time immediately after the transaction. Similarly, in computing the net capital addition or reduction, if the transaction occurs after the beginning of the first taxable year ending after June 30, 1950, the computations which section 435 (g) requires to be made as of the first day of such taxable year shall, instead, be made as of the time immediately after the transaction.

(2) For the taxable year of the component corporation in which occurs the Part II transaction (other than a transaction described in section 461 (a) (1) (E), in which case, see subparagraphs (3) and (4) of this paragraph), if such taxable year ends after June 30, 1950, and if the component corporation does not terminate its existence in such transaction, the average base period net income and the base period capital addition of the component corporation shall be limited to amounts which are the same portions of its average base period net income and its base period capital addition, respectively, as the number of days in such taxable year before the day after such transaction is of the total number of days in such taxable year. If the component corporation is, by reason of the transaction, entitled to apply section 445, it may include in its excess profits credit a portion (determined on the basis of the number of days in the taxable year after the transaction) of the excess profits credit determined by the application of section 445. See § 40.461–4 (b) for the rules applicable in any such case. If the component corporation goes out of existence on the day of such Part II transaction with the result that its taxable year ends on the day of such transac-

tion, the component corporation is not required to prorate its average base period net income for the purpose of computing its excess profits credit for such year. (For a corresponding provision in the case of the acquiring corporation and for an illustration of the application of such corresponding provision and of section 461 (c) (2), see section 462 (j) (2) and § 40.462–11.)

(3) For taxable years of the component corporation beginning after a Part II transaction described in section 461 (a) (1) (E) (that is, a transaction involving a transfer of only a part, as distinguished from a transfer of all or substantially all, of the properties of the component corporation), the excess profits credit based on income of the component corporation shall be determined without regard to that portion of its base period experience for the period ending with the day of the Part II transaction which is allocable to the acquiring corporation, and without regard to that portion of the capital changes of the component corporation occurring before such transaction which is allocable to the acquiring corporation. See § 40.461–7 for the method of applying this rule.

(4) For the taxable year of the component corporation in which occurs a Part II transaction described in section 461 (a) (1) (E) (that is, a transfer by the component corporation of only a part, as distinguished from all or substantially all, of its properties), if such taxable year ends after June 30, 1950, the average base period net income of the component corporation shall be limited to the sum of (i) an amount which is the same portion of its average base period net income as the number of days in such taxable year before the day after such transaction is of the total number of days in such taxable year, and (ii) an amount which is the same portion of its average base period net income allocable to it after the application of subparagraph (3) of this paragraph, as the number of days in such taxable year after the day of such transaction is of the total number of days in such taxable year. A similar rule applies with respect to the base period capital addition of the component corporation.

(5) Section 461 (c) provides that the acquiring corporation shall not take into account, for the purpose of determining its average base period net income, the base period experience of the component corporation for any period beginning with the day after the Part II transaction.

(c) *Proration of excess profits net income.* If the Part II transaction, except a transaction described in section 461 (a) (1) (E), occurred in a taxable year of the component corporation beginning with or within its base period, the excess profits net income of such component corporation for the portion of the taxable year after the transaction and for the prior portion of the taxable year (which prior portion is to be taken into account only by the acquiring corporation in such transaction) shall be computed on the basis of its income as shown by its books if the accounts are so kept that excess profits net income for each of such portions can be clearly and accurately determined. If the accounts are not so kept, the excess profits net income for the portion of the taxable year after the transaction shall be considered to be an amount which bears the same ratio to the excess profits net income for such taxable year as the number of days in such taxable year after such transaction bears to the total number of days in such taxable year, and the excess profits net income for the prior portion of such taxable year shall be considered to be the balance of the excess profits net income for such taxable year. However, if items of income and deduction are clearly and accurately determined to be attributable to particular portions of the taxable year, such items may be eliminated before the above proration is made, and after the proration is made such items will be added to (if items of income) or deducted from (if deductible items) the excess profits net income determined by the proration for the period to which such items are attributable.

(d) *Example of application of section 461 (c) (1) and (2).* The application of the provisions of section 461 (c) (1) and (2) may be illustrated by the following example:

Example. The A Corporation, the B Corporation, and the C Corporation, which corporations make their income tax returns on the calendar year basis, commenced business before January 1, 1946. On December 31, 1947, the B Corporation acquired the properties of the A Corporation in a transaction described in section 461 (a) (1) (A). The A Corporation subsequently converted into new properties the stock of the B Corporation which it received in such transaction. It operated such new properties until October 19, 1951, when they were transferred to the C Corporation in a transaction described in section 461 (a) (1) (A). The A Corporation continued in business throughout 1951 and 1952, operating properties which it purchased with the proceeds of the conversion of the stock received in the second transaction. The operation of section 461 (c) (1) and (2) is as follows:

(1) As to the B Corporation. In determining its average base period net income under Part II for the purpose of the excess profits tax for 1950 and later excess profits tax taxable years, the B Corporation takes into account the A Corporation's base period experience for 1946 and 1947. Inasmuch as the transaction involving the B Corporation occurred prior to 1948, there is no base period capital addition of the A Corporation that could be transferred to the B Corporation. See section 464 and § 40.464–1.

(2) As to the A Corporation. In determining its average base period net income for the purpose of its excess profits tax for 1950, the A Corporation takes into account its base period experience for 1948 and 1949, but cannot use its base period experience for 1946 and 1947. The A Corporation takes into account, for the purpose of computing its excess profits credit for 1951, only four-fifths (the ratio of the number of days in the period January 1, 1951 to October 19, 1951, inclusive (292) over the number of days in 1951 (365)) of its average base period net income determined without regard to its base period experience for 1946 and 1947. The A Corporation also takes into account for such purpose for 1951 only four-fifths of its base period capital addition. See § 40.463–1 for the computation of the net capital addition or reduction for 1951. However, such corporation may be entitled to compute its average base period net income under section 445 as a new corporation, since for the purpose of that section a corporation that transfers substantially all of its properties in a Part II transaction is deemed not to have commenced business until after the day of such transaction. See section 461 (d). Assuming that the A Corporation may qualify under section 445 as a new corporation with respect to both Part II transactions (the one on December 31, 1947, and the one on October 19, 1951) it will compute its excess profits credit for 1951 by taking into account four-fifths of its excess profits credit determined by applying section 445 as if it commenced business on the day after the first Part II transaction (and ended its taxable year on October 19, 1951), and one-fifth of its excess profits credit determined by applying section 445 as if it commenced business on the day after the second Part II transaction (and as if its taxable year began on October 20, 1951). See § 40.461–4 (b). The A Corporation will be entitled to use the credit based on invested capital if such credit results in less tax. The A Corporation determines its excess profits credit for 1952, without regard to its base period experience, its base period capital addition, if any, and its net capital additions or reductions prior to the transaction on October 19, 1951. Thus, for the purpose of section 435 (g) (3) (B), its equity capital at the beginning of January 1, 1952, is compared with its equity capital at the beginning of October 20, 1951.

(3) As to the C Corporation. Section 461 (c) first affects the C Corporation with respect to 1951. In determining its average base period net income under Part II for the purpose of its excess profits tax for that year, the C Corporation takes into account one-fifth of the A Corporation's base period experience for 1948 and 1949 and one-fifth of its base period capital addition. See section 462 (j) (2) and § 40.462–11. In determining the C Corporation's average base period net income under Part II for the purpose of its excess profits tax for 1952, the C Corporation takes into account all of the A Corporation's base period experience for 1948 and 1949. Since the C Corporation commenced business before January 1, 1946, it may not use any average base period net income of the A Corporation determined under section 445 by reference to the first Part II transaction, except to the extent that such average base period net income may be available to the C Corporation under §§ 40.462–3 (c) and 40.462–11. For computations by the C Corporation involving the A Corporation's capital additions and reductions, see section 463, § 40.463–1, section 464, and § 40.464–1.

(e) *Example of application of section 461 (c) (3) and (4).* The application of the provisions of section 461 (c) (3) and (4) may be illustrated by the following example:

Example. The A Corporation and the B Corporation, which corporations make their income tax returns on the calendar year basis, commenced business before January 1, 1946. On December 31, 1947, the B Corporation acquired part of the properties of the A Corporation in a transaction described in section 461 (a) (1) (E). The A Corporation subsequently converted into new properties the stock in the B Corporation which it received in such transaction. It operated such new properties, together with the retained part of its old properties, until October 19, 1951, when, in a transaction described in section 461 (a) (1) (E), it transferred part of its properties to the C Corporation, a corporation created incident to the transaction. The A Corporation continued in business throughout 1951 and 1952. The operation of section 461 (3) and (4) is as follows:

(1) As to the B Corporation. In determining its average base period net income

under Part II for the purpose of the excess profits tax for 1950 and later excess profits tax taxable years, the B Corporation takes into account that portion of the A Corporation's base period experience for 1946 and 1947 which is allocable under section 462 (i) and § 40.462–9 to the properties which the A Corporation transferred to the B Corporation. Inasmuch as the transaction involving the B Corporation occurred prior to 1948, there is no base period capital addition of the A Corporation that could be transferred to the B Corporation. See section 464 and § 40.464–1.

(2) As to the A Corporation. In determining its average base period net income for the purpose of its excess profits tax for 1950, it takes into account its entire base period experience for 1948 and 1949, and that portion of its base period experience for 1946 and 1947 which is allocable under section 462 (i) and § 40.462–9 to the properties retained by the A Corporation. Inasmuch as the transaction involving the B Corporation occurred prior to 1948, the base period capital addition of the A Corporation is not affected by the transaction. The A Corporation takes into account, for the purpose of computing its excess profits credit for 1951, the sum of the following: (i) An amount which is four-fifths (the ratio of the number of days in the period January 1, 1951, to October 19, 1951, inclusive (292), over the number of days in 1951 (365)) of its average base period net income determined without regard to that portion of its base period experience for 1946 and 1947 which is allocable to the B Corporation, and (ii) an amount which is one-fifth of that portion of its average base period net income so determined under (i) as is allocable under section 462 (i) and § 40.462–9 to the properties retained by the A Corporation. A similar determination is made with respect to the base period capital addition of the A Corporation. See § 40.463–1 for the computation of the net capital addition or reduction for 1951. The A Corporation will be entitled to use the credit based on invested capital if such credit results in less tax. The A Corporation determines its excess profits credit for 1952 without regard to those portions of its base period experience, its base period capital addition, if any, and its capital additions and reductions prior to the transaction on October 19, 1951, as are allocable to the B Corporation or to the C Corporation. Thus, for the purpose of section 435 (g) (3) (B), proper adjustment shall be made in determining the excess of equity capital at the beginning of January 1, 1952, over equity capital at the beginning of January 1, 1950.

(3) As to the C Corporation. Section 461 (c) first affects the C Corporation with respect to 1951. In determining its average base period net income under Part II for the purpose of its excess profits tax for that year, the C Corporation takes into account that portion of the A Corporation's base period experience for 1946 and 1947 which is allocable under section 462 (i) and § 40.462–9 to those properties of the A Corporation which were not transferred to the B Corporation, and which is allocable to the properties of the A Corporation transferred to the C Corporation, and that portion of the A Corporation's base period experience for 1948 and 1949 which is allocable under section 462 (i) and § 40.462–9 to the properties of the A Corporation transferred to the C Corporation. See section 462 (j) (2) and § 40.462–11 for the rules applicable if the taxable year of the C Corporation began prior to October 19, 1951, the date of the Part II transaction. The C Corporation's average base period net income under Part II for the purpose of its excess profits tax for 1952, is similarly determined except that section 462 (j) (2) and § 40.462–11 are not applicable. The C Corporation is not eligible to compute its average base period net income under section 445. See sections 445 (g), 462 (g), and § 40.462–7. For computations by the C Corporation involving the A Corporation's capital additions and reductions, see section 463, § 40.463–1, section 464, and § 40.464–1.

§ 40.461–4 *Existence of acquiring and component corporations.* (a) An acquiring corporation is considered, for certain purposes, to have been in existence and to have had taxable years for any period during which it or any of its component corporations was in existence and to have commenced business on the earliest date on which it or any of its component corporations commenced business. Except as otherwise expressly provided in section 462, the above rule applies for the purpose of section 435 (e) (alternative based on growth), section 442 (abnormalities during base period), section 443 (change in products or services), section 444 (increase in capacity for production or operation), section 445 (new corporations), and section 446 (depressed industry subgroups). Thus, if the component corporation (but not the acquiring corporation) was in existence and commenced business before the first day of the base period of the acquiring corporation, the acquiring corporation will be considered to have been in existence and to have commenced business prior to such first day, and section 435 (e), 442, 443, 444, or 446, but not section 445, may (subject to the rules of section 462) be applicable to the acquiring corporation. In the case of an acquiring corporation which becomes a component corporation of another acquiring corporation, effect is given to the constructive existence of the first acquiring corporation in determining the constructive existence of the second acquiring corporation. During the period of constructive existence, the taxable years of the acquiring corporation will be determined on the basis of the annual accounting period established for its first taxable year of actual existence.

(b) Except for the purpose of paragraph (a) of this section a component corporation in a Part II transaction, other than a transaction described in section 461 (a) (1) (E), shall be deemed not to have been in existence or to have commenced business prior to the day after such Part II transaction in determining the applicability to such corporation after such transaction of section 435 (e), 442, 443, 444, 445, or 446. Under this rule, a component corporation which transferred substantially all of its properties in a Part II transaction occurring during or after its base period may qualify for the benefits of section 445 as a new corporation. If the taxpayer was a component corporation in two or more Part II transactions (other than transactions of a type described in section 461 (a) (1) (E)) occurring prior to the taxable year for which the excess profits credit is computed, then for the purpose of determining the applicability of section 435 (e), 442, 443, 444, 445, or 446, the component corporation shall be deemed not to have been in existence nor to have commenced business prior to the day after the last such Part II transaction. If the Part II transaction occurs during a taxable year ending after June 30, 1950, and if the component corporation is entitled to apply section 445 as if it began existence and commenced business on the day after such transaction, the excess profits credit of the component corporation for such taxable year (if determined with such application of section 445) shall be the sum of the following amounts of excess profits credit, each such amount being first reduced to an amount which is such portion thereof as the number of days in the period for which such credit is computed is of the number of days in the taxable year in which the transaction occurred:

(1) The excess profits credit determined as if the portion of the taxable year ending on the date of such transaction were a taxable year, and determined without regard to such application of section 445 (but with regard to any similar application of section 445 in respect to a previous Part II transaction); and

(2) The excess profits credit determined with such application of section 445 as if the portion of the taxable year after the day of the transaction were a taxable year.

§ 40.461–5 *Partnerships and sole proprietorships under Part II.* A partnership (or a business owned by a sole proprietorship) can be a component corporation in certain types of Part II transactions. A partnership may be a component corporation only in a section 461 (a) (1) (D) or (E) type transaction. See section 461 (b) (5) and (6) and § 40.461–2 (a) (4) and (5). A business owned by a sole proprietorship can be a component corporation only in a section 461 (a) (1) (D) type transaction. See section 461 (f). A partnership (or a business owned by a sole proprietorship) cannot be an acquiring corporation and, therefore, the base period experience of any predecessor of a partnership (or a business owned by a sole proprietorship) is not made available to the acquiring corporation of which such parnership (or such business) is a component corporation.

§ 40.461–6 *Component corporation which was an acquiring corporation in a previous transaction.* Section 40.462–1 (a) provides the method by which an acquiring corporation, in a transaction described in Part II, determines its average base period net income under section 435 (c) for the purpose of the excess profits credit based on income. In the event that such an acquiring corporation becomes a component corporation in a subsequent Part II transaction, the rules set forth in section 462 (a) and in § 40.462–1 (a) are subject to the provisions of section 461 (e) which section provides that, for the purpose of such subsequent Part II transaction—

(a) The average base period net income of such corporation is to be determined under section 435 (d), section 435 (e), or section 442 (c), with the application to the previous transaction of section 462 (b) and of section 462 (c) or (d) (where applicable), and

(b) The average base period net income of such corporation is to be determined under section 442 (d), section 443,

section 444, section 445, or section 446, with the application to the previous transaction of section 462 (d), (e), (f), (g), or (h) (where applicable).

For rules relating to the constructive existence of such corporation in certain cases, see § 40.461–4. For the purpose of the regulations under Part II, where a corporation created incident to a previous Part II transaction is a party to a subsequent Part II transaction, such corporation shall, with respect to the subsequent transaction, be treated in the same manner as if its actual existence corresponded to that of its most recently organized component corporation.

§ 40.461–7 *Provisions generally applicable under Part II*—(a) *Definition of "base period experience".* As used in the regulations under Part II, the term "base period experience" refers to the excess profits net income, to the average base period net income if computed under section 442, 443, 444, 445, or 446, and to any factor entering into the determination of an average base period net income.

(b) *Application of Part II in certain types of transactions described in section 461 (a) (1) (E).* In the case of a Part II transaction described in section 461 (a) (1) (E) which involves—

(1) A transfer by a component corporation to an acquiring corporation which was not created incident to the transaction, or

(2) A transfer to an acquiring corporation, whether or not the acquiring corporation was created incident to the transaction, of properties by more than one component corporation, where one or more of such component corporations transferred less than substantially all of its properties, the acquiring corporation shall compute its excess profits credit under Part II as though each component corporation in any such transaction which transferred less than substantially all of its properties had transferred those properties to a corporation created incident to the transaction in a transaction described in section 461 (a) (1) (E) and such corporation had immediately thereafter transferred all of such properties to the acquiring corporation in a Part II transaction other than a transaction described in section 461 (a) (1) (E). See section 461 (e), relating to component corporations which were acquiring corporations in a previous Part II transaction.

(c) *Excess profits credit of component corporations in Part II transactions described in section 461 (a) (1) (E)*—(1) *In general.* The excess profits credit of a component corporation in a transaction described in section 461 (a) (1) (E) shall be determined under Part II, for taxable years ending after the day of such transaction, in the same manner as though (in such transaction) such component corporation were an acquiring corporation in a transaction described in section 461 (a) (1) (E), and as though it had received in that transaction the properties which it in fact retained.

(2) *Special rule.* For the purpose of applying section 435 (f) and (g) (relating to capital changes) in the case of a component corporation which continues in existence after a Part II transaction described in section 461 (a) (1) (E), the consideration received by such component corporation in such transaction shall be considered as having been held by it at all such times prior to the transaction as are taken into account under section 435 (f) and (g). For example, in computing the adjustment with respect to inadmissible assets or, if applicable, stock in a member of a controlled group, the stock in an acquiring corporation received by the component corporation in the transaction will, for the purpose of section 435 (g), be deemed to have been held by the component corporation on the first day of its first taxable year ending after June 30, 1950, if the transaction takes place after the beginning of such taxable year.

PAR. 2. There is inserted immediately after section 462, the following:

§ 40.462–1 *General rules for determining average base period net income of an acquiring corporation*—(a) *Introductory.* (1) In the case of an acquiring corporation, its average base period net income, for the purpose of the excess profits credit based on income, computed under the general average method (section 435 (d)), may be determined by computing its excess profits net income either with or without reference to section 462 (b) of Part II, whichever results in the lesser excess profits tax. If computed without reference to section 462 (b), the excess profits net income of the acquiring corporation is computed with reference to its base period experience but without reference to the base period experience of its component corporations. If computed with reference to section 462 (b), the excess profits net income of the acquiring corporation shall be the excess profits net income or deficit in excess profits net income for each month of the acquiring corporation's base period (as defined in section 435 (b)), increased or decreased, as the case may be, by the addition or reduction resulting from including the excess profits net income or deficit in excess profits net income for that month of all component corporations in the manner provided in section 462 (b).

(2) In the case of an acquiring corporation, its average base period net income, for the purpose of the excess profits credit based on income, computed under the alternative based on growth (section 435 (e)), may be determined, subject to the rules provided in section 462 (c), by computing its excess profits net income either with or without reference to section 462 (b) of Part II, whichever results in the lesser excess profits tax. Under section 462 (c), the acquiring corporation's eligibility to use the growth alternative may be determined, in certain instances, with reference to its base period experience and either with or without reference to the base period experience of its component corporations. In other circumstances, it must be determined with reference to the base period experience of its component corporations. See § 40.462–2.

(3) In the case of an acquiring corporation, its average base period net income for the purpose of the excess profits credit based on income, computed under section 442 (c) (abnormalities in the base period adversely affecting not more than 12 months), may be determined, subject to the rules provided in section 462 (d), by computing its excess profits net income either with or without reference to section 462 (b) of Part II, whichever results in the lesser excess profits tax. Under section 462 (d), the acquiring corporation's eligibility to compute its average base period net income under section 442 (c) may be determined, in certain instances, with reference to its base period experience and either with or without reference to the base period experience of its component corporations. In other circumstances, it must be determined with reference to the base period experience of its component corporations. See § 40.462–4.

(4) In the case of an acquiring corporation, its average base period net income, for the purpose of the excess profits credit based on income, computed under section 442 (d) (abnormalities in the base period adversely affecting more than 12 months), section 443 (change in products or services), section 444 (increase in capacity for production or operation), section 445 (new corporations), or section 446 (depressed industry subgroups), shall be determined under the rules set forth in section 462 (d), (e), (f), (g) or (h). See §§ 40.462–8.

(b) *Method of recomputation of excess profits net income of acquiring corporation with reference to that of its component corporations*—(1) *In general.* The following steps are required for the recomputation of the excess profits net income of the acquiring corporation with reference to the base period experience of its component corporations:

(i) The excess profits net income (or deficit in excess profits net income) for each month in the base period of the acquiring corporation, and, for the purpose of section 435 (e) (2) (E) and (G), for each month in the additional period ending June 30, 1950, must be determined for the acquiring corporation and for each component corporation. Except as provided below with respect to the taxable year of the component corporation in which the Part II transaction occurs, the excess profits net income (or deficit in excess profits net income) of any corporation for any month during any part of which that corporation was actually in existence (or constructively in existence by reason of a previous Part II transaction) is determined by dividing the excess profits net income computed under section 433 (b) (or deficit in excess profits net income computed under section 433 (c)) for the taxable year of that corporation in which such month falls by the number of full calendar months in such taxable year, and, in the case of a transaction described in section 461 (a) (1) (E), by taking the portion thereof properly allocable to the properties transferred. In the case of the taxable year of the component corporation in which the Part II transaction occurs, the excess profits net income (or deficit in excess profits net income) for any month in such taxable year shall be determined under the rules provided in

§ 40.461–3 (c), and, in the case of a transaction described in section 461 (a) (1) (E), by taking the portion thereof properly allocable to the properties transferred. The excess profits net income of any corporation for any month during no part of which such corporation was actually in existence (or constructively in existence by reason of a previous Part II transaction) shall be zero, except as provided in subdivision (ii) of this subparagraph. If any corporation was an acquiring corporation in a previous Part II transaction, its excess profits net income for any month prior to such transaction shall be its excess profits net income for such month recomputed under section 462 (b) by reference to such previous Part II transaction. For the purpose of section 435 (e) (2) (E) and (G), the excess profits net income or deficit in excess profits net income is subject to the percentages specified in section 435 (e) (2) (E).

(ii) If the acquiring corporation was in existence (either actually in existence or, under section 461 (d), constructively in existence through a component corporation) at the beginning of its base period, the excess profits net income for each month prior to the Part II transaction, during all of which either the acquiring corporation or any component corporation was not actually in existence, is computed for such acquiring or component corporation under this subparagraph. The excess profits net income for any such month shall be 1 percent of such corporation's equity capital (as defined in section 437 (c) and § 40.437–5), reduced by an amount determined under the inadmissible asset ratio (computed under section 440 (b) and § 40.440–1), both determined as of the close of the day before the Part II transaction occurred, or at the close of the base period of such corporation, whichever date is earlier. See example, § 40.462–1 (c). There is no such determination for any month after the Part II transaction. For adjustments to equity capital, see § 40.462–1 (b) (3).

(iii) For each month of the acquiring corporation's base period, and, for the purpose of section 435 (e) (2) (E) and (G), for each month thereafter for the period ending June 30, 1950, the excess profits net income or deficit in excess profits net income of the acquiring corporation for that month, as determined under subdivisions (i) and (ii) of this subparagraph shall be increased or decreased, as the case may be, by the excess profits net income or deficit in excess profits net income of each component corporation for that month so determined; except that, if the acquiring corporation acquires only a part of the component corporation's properties in a transaction described in section 461 (a) (1) (E), then the increase or decrease shall be made for only that portion of such component corporation's excess profits net income or deficit in excess profits net income as is allocable under section 462 (i) and § 40.462–9 to the properties of the component corporation transferred to the acquiring corporation. The excess profits net income of the acquiring corporation for any month, recomputed as provided in the previous sentence, shall in no event be less than zero. All component corporations must be taken into consideration in making the recomputation of the excess profits net income of the acquiring corporation. In the case of a component corporation which does not terminate its existence in connection with the Part II transaction, its excess profits net income or deficit in excess profits net income for any month or part thereof after such transaction shall not be taken into account by the acquiring corporation in recomputing its excess profits net income for such month. See section 461 (c) and § 40.461–3 (b) (5).

(2) *Special rules for partnerships and sole proprietorships.* In the case of a component corporation which is a partnership or a business owned by a sole proprietorship (see § 40.461–5), its excess profits net income or deficit in excess profits net income for each month falling within the acquiring corporation's base period, and, for the purpose of section 435 (e) (2) (E) and (G), for each month thereafter for the period ending June 30, 1950, shall be determined as though such partnership or such business owned by a sole proprietorship had been a corporation. See section 462 (k). Among the adjustments which are necessary in such a case are the following:

(i) A reasonable deduction for salary or compensation to each partner or to the sole proprietor for personal services actually rendered shall be allowed;

(ii) The credit for dividends received shall be that applicable to corporation;

(iii) The treatment of capital gains and losses and of taxes (whether state, local, or other) shall be that applicable to corporations;

(iv) The deduction for charitable contributions shall be that allowed by section 23 (q).

(3) *Limitations.* The determination under subparagraph (1) (ii) of this paragraph, of excess profits net income computed at 1 percent of equity capital (hereinafter referred to as "constructive income") for any month during no part of which the corporation was in existence (hereinafter referred to as a "vacant month") is subject to each of the following limitations:

(i) Section 462 (b) (2) provides for an adjustment to prevent duplication in determining the equity capital factor, 1 percent of which is allowed as the excess profits net income. The cases generally covered by this limitation are those in which there was cross-ownership of stock between corporations prior to the Part II transaction, but it also covers cases where property or stock of one corporation has been transferred to another corporation as paid-in surplus or as a contribution to capital. As such, the primary purpose of this limitation is to prevent doubling up on the factor of equity capital upon which the constructive income allowed under section 462 (b) (2) is computed. Briefly stated, the limitation under section 462 (b) (2) provides that in case either the acquiring corporation or any component corporation owned stock in any other such corporation on the day for which the equity capital factor is determined, then such equity capital factor, upon which the constructive income allowed under section 462 (b) (2) with respect to vacant months of such corporations is computed, shall be adjusted to such extent as may be necessary to prevent such constructive income from reflecting money or property paid in by either of such corporations to the other for stock or as paid-in surplus or as a contribution to capital, or from reflecting stock of either paid in for stock of the other or as paid-in surplus or as a contribution to capital. For this purpose, stock in either such corporation which has in the hands of the other corporation a basis determined with reference to the basis of stock previously acquired by the issuance of such other corporation's own stock shall be deemed to have been paid in for the stock of such other corporation. The following example illustrates the nature of the adjustment to be made in cases to which this limitation under section 462 (b) (2) applies:

Example. The A Corporation, the B Corporation, and the C Corporation make their income tax returns on the calendar year basis. The A Corporation was in existence and commenced business prior to January 1, 1946. The B Corporation came into existence on January 1, 1948. The C Corporation came into existence on December 31, 1948, and on that day it issued all of its capital stock to the B Corporation for cash of the latter. The B Corporation held this stock continuously until January 15, 1950, at which time it acquired all of the properties of the A Corporation and the C Corporation in a transaction described in section 461 (a). Both the B Corporation and the C Corporation are entitled under section 462 (b) (2) to a constructive income for each of the months in the calendar years 1946 and 1947, and the C Corporation is entitled to a constructive income for each of the first 11 months in the year 1948. The constructive income for each such corporation is for each vacant month an amount equal to 1 percent of the equity capital of such corporation determined as of the close of December 31, 1949, such equity capital being reduced by an amount which is the same percentage of such equity capital as the percentage which the total of the adjusted bases of the inadmissible assets held by such corporation at the close of such day is of the total of the adjusted bases of the admissible and inadmissible assets held at the close of such day. In the case of the reduction for the B Corporation with respect to inadmissible assets, if the amount of such reduction attributable to the stock in the C Corporation is an amount which is less than the adjusted basis of such stock in the hands of the B Corporation at the close of December 31, 1949, a further adjustment must be made to the B Corporation's equity capital in order to eliminate duplication of the same equity capital. Assuming that the adjusted basis of the C Corporation's stock in the hands of the B Corporation is $50,000; that on December 31, 1949, the B Corporation owned shares in other domestic corporations having an adjusted basis of $10,000; that the B Corporation's equity capital at the close of December 31, 1949, is $450,000; and that the total of the adjusted bases of the admissible and inadmissible assets of the B Corporation at the close of December 31, 1949, is $600,000, the computation of the adjustment required under section 462 (b) (2) because of the ownership by the B Corporation of stock in the C Corporation may be illustrated as follows:

(A) Total inadmissible assets		$60,000
(B) Total admissible and inadmissible assets		600,000
(C) Percentage which the total inadmissible assets is of total admissible and inadmissible assets (percent)		10
(D) Equity capital		450,000
(E) Amount of reduction in equity capital for inadmissible assets—10 percent of item (D)		45,000
(F) Reduction in equity capital attributable to the stock in the C Corporation $\left(\frac{50,000}{60,000}\times 45,000\right)$		37,500
(G) Basis of the C Corporation's stock		50,000
(H) Additional adjustment to be made in equity capital in order to arrive at the equity capital under section 462 (b) (2) upon which constructive income is computed		12,500
(I) Equity capital		450,000
Adjustment for inadmissible assets (item (E) above)	$45,000	
Adjustment under section 462 (b) (2) (item (H) above)	12,500	
		57,500
(J) Equity capital as adjusted under section 462 (b) (2) upon which constructive income is computed		392,500

(ii) Section 462 (j) (1) may require the exclusion of all or a part of the constructive income of a component corporation which is determined under section 462 (b) (2) for vacant months, if the acquiring corporation (or any corporation which later became a component corporation of the acquiring corporation) acquired for assets (other than its own stock) the stock of such component corporation. See § 40.462–10. The adjustment necessary under section 462 (j) (1) where constructive income for vacant months would otherwise be determined under section 462 (b) (2) is illustrated by the following example:

Example. The A Corporation was in existence and commenced business prior to January 1, 1946. The B Corporation came into existence on January 1, 1947. Both corporations make their income tax returns on the calendar year basis. The A Corporation sold certain assets for cash, and on January 1, 1948, it used such cash to purchase all of the stock of the B Corporation from the latter's stockholders. On December 31, 1950, the A Corporation acquired all of the properties of the B Corporation in a Part II transaction. By reason of section 462 (j) (1), the base period experience of the B Corporation prior to January 1, 1948, is to be excluded and, therefore, no constructive income need be determined for the B corporation for the year 1946.

(c) *General average method.* The computation of the average base period net income of an acquiring corporation, determined under the general average method of section 435 (d) by computing the excess profits net income with reference to section 462 (b), may be illustrated by the following example:

Example. The A Corporation came into existence and commenced business prior to January 1, 1946. The B Corporation and the C Corporation each came into existence on January 1, 1947. The A Corporation, the B Corporation, and the C Corporation each makes its income tax returns on the calendar year basis. The A Corporation acquired all of the properties of the B Corporation and of the C Corporation in a Part II transaction on January 1, 1949. The B Corporation and the C Corporation each had equity capital of $100,000 at the close of December 31, 1948 (the day before the Part II transaction). The excess profits net income for each of the corporations for the base period taxable years is as follows:

EXCESS PROFITS NET INCOME

	For taxable year—			
	1946	1947	1948	1949
A Corporation	−$36,000	$48,000	$60,000	$108,000
B Corporation	0	−24,000	24,000	-------
C Corporation	0	12,000	24,000	-------

The excess profits net income for each month in such taxable years is as follows:

EXCESS PROFITS NET INCOME

	For each month in calendar year—			
	1946	1947	1948	1949
A Corporation	−$3,000	$4,000	$5,000	$9,000
B Corporation	[1] 1,000	−2,000	2,000	-------
C Corporation	[1] 1,000	1,000	2,000	-------
Total	−1,000	3,000	9,000	9,000

[1] Constructive income computed under section 462 (b) (2). See paragraph (b) (1) (ii) of this section.

The excess profits net income of the A Corporation for each month as recomputed under section 462 (b) is the total excess profits net income for that month, as shown in the above table, except that, for each month in 1946, the recomputed excess profits net income is increased to zero. Since the 36 consecutive months in the years 1947, 1948, and 1949 have the highest aggregate excess profits net income, the average base period net income is such aggregate excess profits net income divided by 3. The average base period net income of the A Corporation, recomputed under section 462 (b), is $84,000, determined as follows:

Aggregate for months in 1947 (12×$3,000)	$36,000
Aggregate for months in 1948 (12×$9,000)	108,000
Aggregate for months in 1949 (12×$9,000)	108,000
Aggregate for 36 months	252,000
Aggregate divided by 3	84,000

This figure, subject to the percentage prescribed in section 435 (a), may be used by the A Corporation in computing its excess profits credit based on income for the purpose of determining its excess profits tax for 1950 and future excess profits tax taxable years.

§ 40.462–2 *Alternative average base period net income based on growth*—(a) *In general.* Section 462 (c) deals with the effect of a Part II transaction upon the right of an acquiring corporation to the use of the growth alternative provided in section 435 (e). See § 40.462–1 (a) (2). The rules for applying section 435 (e) in the case of a party to a Part II transaction may differ, depending upon whether eligibility under section 435 (e) (1) (A) or under section 435 (e) (1) (B) is involved, whether the Part II transaction is of a type described in section 461 (a) (1) (E), whether the acquiring corporation actually or constructively through a component corporation commenced business prior to the beginning of its base period, whether the acquiring corporation determines its excess profits net income with reference to the recomputation provided in section 462 (b), and whether the transaction occurs prior to or after certain dates.

(b) *Part II transactions other than a a transaction described in section 461 (a) (1) (E)*—(1) *Alternative under section 435 (e) (1) (A).* (i) In the case of a Part II transaction other than a transaction described in section 461 (a) (1) (E), section 462 (c) provides that an acquiring corporation shal be entitled to the use of an alternative average base period net income under section 435 (e) (1) (A), relating to growth, only—

(*a*) If the Part II transaction occurs after June 30, 1950, if such acquiring corporation was entitled under section 435 (e) (1) (A) to the use of an alternative average base period net income based on growth immediately prior to the date of the Part II transaction, and if the acquiring corporation determines its excess profits net income without reference to the recomputation provided in section 462 (b); or

(*b*) Regardless of the date on which the Part II transaction occurs, if the acquiring corporation (other than a corporation created incident to such transaction) and all the component corporations actually commenced business prior to the beginning of the acquiring corporation's base period, if the acquiring corporation recomputes its excess profits net income under section 462 (b), and if the acquiring corporation qualifies under the rules of section 435 (e) (1) (A) after applying the rules set forth in subdivision (ii) of this subparagraph.

(ii) For the purpose of subdivision (i) (*b*) of this subparagraph, the acquiring corporation shall combine its total assets on the date specified in section 435 (e) (1) (A) (i) with the total assets of each component corporation on such date (the total assets of each such corporation being determined under that section), and it shall combine with its total payroll and its total gross receipts for that portion of its base period which preceded such transaction the total payroll and total gross receipts of each such component corporation for that portion of such period. The allocation of payroll and gross receipts of a component corporation for its taxable year to any such portion of such period shall be made in accordance with the rules provided in section 435 (e) (4) and (5) subject, for the taxable year of the transaction, to the principles described in § 40.461–3 (c). In combining gross receipts, proper adjustment shall be made to prevent duplication, including the elimination of those gross receipts of a component corporation or the acquiring corporation which are attributable to transactions between either such component corporation and the acquiring corporation or such component corporation and another component corporation.

(iii) If the acquiring corporation does not qualify under subdivision (i) (*b*) of this subparagraph, for the use of an alternative average base period net income under section 435 (e) (1) (A) because any corporation a party to the Part II

transaction (other than a corporation created incident to such transaction) had not actually commenced business prior to the beginning of its base period or because the total of the assets of the acquiring corporation determined under subdivision (ii) of this subparagraph, exceeds $20 million, if the Part II transaction occurs after June 30, 1950, if the acquiring corporation determines its average base period net income under section 435 (d) after recomputing its excess profits net income under section 462 (b), and if any corporation a party to the Part II transaction (whether the acquiring corporation or a component corporation) was under section 435 (e) (1) (A) entitled immediately prior to the date of the transaction to the use of an alternative average base period net income based on growth, then one-twelfth of such alternative average base period net income of such corporation shall be treated as its monthly excess profits net income for the purpose of determining such average base period net income of the acquiring corporation under section 435 (d).

(2) *Alternative under section 435 (e) (1) (B).* (i) In the case of a Part II transaction other than a transaction described in section 461 (a) (1) (E), section 462 (c) provides that an acquiring corporation shall be entitled to the use of an alternative average base period net income under section 435 (e) (1) (b), relating to growth, only—

(*a*) If the Part II transaction occurs after December 31, 1950, if such acquiring corporation was entitled under section 435 (e) (1) (B) to the use of an alternative average base period net income based on growth immediately prior to the date of the Part II transaction, and if the acquiring corporation determines its excess profits net income without reference to the recomputation provided in section 462 (b); or

(*b*) If immediately prior to a Part II transaction occurring prior to January 1, 1951, the acquiring corporation (other than a corporation created incident to such transaction) and all component corporations were furnishing products or classes of products of the type described in section 435 (e) (1) (B) (ii), if the acquiring corporation (other than a corporation created incident to such transaction) and all component corporations actually commenced business prior to the beginning of the acquiring corporation's base period, if the acquiring corporation recomputes its excess profits net income under section 462 (b), and if the acquiring corporation qualifies under the rules of section 435 (e) (1) (B) after applying the rules set forth in subdivision (ii) of this subparagraph; or

(*c*) If immediately prior to a Part II transaction occurring after December 31, 1950, the acquiring corporation (other than a corporation created incident to such transaction) and all component corporations were entitled under section 435 (e) (1) (B) to the use of an alternative average base period net income based on growth, if the acquiring corporation (other than a corporation created incident to such transaction) and all component corporations actually commenced business prior to the beginning of the acquiring corporation's base period, if the acquiring corporation recomputes its excess profits net income under section 462 (b), and if the acquiring corporation qualifies under the rules of section 435 (e) (1) (B) after applying the rules set forth in subdivision (ii) of this subparagraph.

(ii) For the purpose of subdivision (i) (*b*) and (*c*) of this subparagraph, the acquiring corporation shall combine with its net sales for that portion of the period prior to January 1, 1951, which preceded such Part II transaction, the net sales of each such component corporation for such portion of such period. In combining net sales, proper adjustment shall be made to prevent duplication, including the elimination of those net sales of a component corporation or the acquiring corporation which are attributable to transactions between either such component corporation and the acquiring corporation or such component corporation and another component corporation.

(iii) If the Part II transaction occurs after December 31, 1950, if the acquiring corporation does not qualify under subdivision (i) (*c*) of this subparagraph, for the use of an alternative average base period net income under section 435 (e) (1) (B), if the acquiring corporation determines its average base period net income under section 435 (d) after recomputing its excess profits net income under section 462 (b), and if any corporation a party to the Part II transaction (whether the acquiring corporation or a component corporation) was entitled under section 435 (e) (1) (B), immediately prior to the date of the transaction, to the use of an alternative average base period net income based on growth, then one-twelfth of such alternative average base period net income of such corporation shall be treated as its monthly excess profits net income for the purpose of determining such average base period net income of the acquiring corporation under section 435 (d).

(c) *Part II transactions described in section 461 (a) (1) (E).*—(1) *Alternative under section 435 (e) (1) (A).* (i) In the case of a Part II transaction described in section 461 (a) (1) (E), section 462 provides that an acquiring corporation shall be entitled to the use of an alternative average base period net income under section 435 (e) (1) (A), relating to growth, only if it recomputes its excess profits net income under section 462 (b) and—

(*a*) If the transaction occurs after the close of the base period of the component corporation, and if immediately prior to the date of the transaction the component corporation qualified under section 435 (e) (1) (A) for the use of an alternative average base period net income under that section; or

(*b*) If the transaction occurred during the base period of the acquiring corporation, if the component corporation actually commenced business prior to the beginning of its base period, and if the acquiring corporation qualifies under the rules of section 435 (e) (1) (A) after applying the rules set forth in subdivision (ii) of this subparagraph.

(ii) For the purpose of subdivision (i) (*b*) of this subparagraph, the acquiring corporation shall be considered as having held the total assets of the component corporation as of the date specified in section 435 (e) (1) (A) (i) as determined under that section for that date, and it shall be treated as having had, for the period prior to the day of the transaction, an allocated share of the payroll and of the gross receipts of the component corporation. Such payroll and gross receipts shall be determined in accordance with the rules provided in section 435 (e) (4) and (5) subject, for the taxable year of the transaction, to the principles described in § 40.461–3 (c); and such allocation of such payroll and gross receipts shall be in the same ratio as that existing in the allocation of the excess profits net income. See section 462 (i) and § 40.462–9.

(2) *Alternative under section 435 (e) (1) (B).* (i) In the case of a Part II transaction described in section 461 (a) (1) (E), section 462 (c) provides that an acquiring corporation shall be entitled to the use of an alternative average base period net income under section 435 (e) (1) (B), relating to growth, only if it recomputes its excess profits net income under section 462 (b) and—

(*a*) If the transaction occurs after December 31, 1950, and if immediately prior to the date of the transaction the component corporation qualifies under section 435 (e) (1) (B) for the use of an alternative average base period net income under that section; or

(*b*) If the transaction occurred prior to January 1, 1951, if the component corporation actually commenced business prior to the beginning of its base period, if immediately prior to the transaction the component corporation was furnishing a product or class of products of the type described in section 435 (e) (1) (E), and if the acquiring corporation qualifies under the rules of section 435 (e) (1) (B) after applying the rules set forth in subdivision (ii) of this subparagraph.

(ii) For the purpose of subdivision (i) (*b*) of this subparagraph, the acquiring corporation shall be considered as having had, for the period prior to the date of the transaction, an allocated share of the net sales of the component corporation, such allocation of net sales being in the same ratio as that existing in the allocation of the excess profits net income. See section 462 (i) and § 40.462–9.

(3) *Special rules.* For special rules with respect to a Part II transaction described in section 461 (a) (1) (E) involving a transfer to an acquiring corporation not created incident to the transaction, or involving a transfer by more than one component corporation to an acquiring corporation, see § 40.461–7 (b).

§ 40.462–3 *Alternative average base period net income under section 442, 443, 444, 445, or 446.*—(a) In general. Section 462 (d), (e), (f), (g), and (h) provides special rules applicable in determining the average base period net income of an acquiring corporation under sections 442 to 446, inclusive. Certain rules generally applicable under

those subsections of section 462 are set forth in this section. Additional special rules provided in such subsections of section 462 are set forth in the sections immediately following this section. The rules for applying sections 442 to 446, inclusive, and section 462 (d) to (h), inclusive, may differ depending upon whether the Part II transaction is of a type described in section 461 (a) (1) (E) (relating to a transfer by a component corporation of a part, as distinguished from all or substantially all, of its properties), whether the transaction occurs before or after certain dates, and whether the acquiring corporation has actually or constructively through a component corporation (see section 461 (d)) commenced business on or before the first day of the base period.

(b) *Commencement of business.* If neither the acquiring corporation nor any component corporation was in existence and commenced business on or before the first day of the base period of the acquiring corporation, the acquiring corporation is not entitled to determine its average base period net income under section 442, 443, 444, or 446, or under section 462 (d), (e), (f), or (h). If either the acquiring corporation or any component corporation commenced business on or before the first day of the base period of the acquiring corporation, the acquiring corporation is not entitled to compute its average base period net income under section 445 or section 462 (g), except to the extent that such sections are involved under paragraph (c) of this section. See section 461 (d) as to constructive existence and constructive commencement of business.

(c) *Rule applicable if all parties were previously entitled to an alternative average base period net income.* If immediately prior to the transaction each of the corporations, parties to the Part II transaction, other than a corporation created incident to the Part II transaction, was entitled to compute its average base period net income under section 442 (d) (relating to abnormalities in base period), section 443 (relating to change in products or services), section 444 (relating to increase in capacity for production or operation), section 445 (relating to new corporations), or section 446 (relating to depressed industry subgroups), then the acquiring corporation (whether or not created incident to the Part II transaction) may determine its average base period net income after the transaction by computing its own average base period net income under whichever of such sections is applicable to it immediately prior to the transaction, and by adding thereto the average base period net income of each component corporation separately computed under whichever of such sections is applicable to such component corporation immediately prior to the transaction. However, in the case of a transfer by a corporation of a part, as distinguished from all or substantially all, of its properties to a corporation created incident to such transfer in a transaction to which section 461 (a) (1) (E) is applicable, only so much of the average base period net income of such component corporation, so computed, as is allocable under the rules of section 462 (i) and § 40.462–9 to the properties of such component corporation transferred to the acquiring corporation is available to such acquiring corporation under the rule set forth in the preceding sentence. The rules provided in this paragraph are not applicable in any case in which all of the corporations (other than a corporation created incident to the Part II transaction), parties to the Part II transaction, were entitled immediately prior to the transaction to the benefits of section 445. See § 40.462–7 for rules applicable in such case. See section 470 for rules applicable, in certain cases involving intercorporate stockholdings, in determining the total assets of a component corporation for the purpose of the separate computation under this paragraph of its average base period net income immediately prior to the transaction.

(d) *Method of determination.* An acquiring corporation not entitled to compute its average base period net income under paragraph (c) of this section may nevertheless be entitled, under the circumstances set forth in §§ 40.462–4 to 40.462–8, inclusive, to apply sections 442 to 446, inclusive, if it meets the requirements of those sections and of section 462 (d) through (h). The following rules are applicable for the purpose of determining whether, after the transaction, an acquiring corporation meets the requirements of section 442, 443, 444, 445, or 446 and § 40.462–4, § 40.462–5, § 40.462–6, § 40. 462–7, or § 40.462–8:

(1) *Assets.* For this purpose, the total assets of each component corporation held by it on a day for which the computation of total assets of the acquiring corporation is required by the applicable section, which day preceded the day on which the transaction occurred, shall be treated as having been held by the acquiring corporation on such day.

(2) *Interest.* For this purpose, the interest paid or incurred by each component corporation during the period prior to the date of the transaction, taken into account in computing the interest adjustment applicable in determining average base period net income, shall be considered as having been paid or incurred by the acquiring corporation at the time it was paid or incurred by such component corporation.

(3) *Gross receipts.* For this purpose, the gross receipts of each component corporation for the period prior to the date of the transaction, taken into account under such section in determining the industry classification of the acquiring corporation, shall be treated as the gross receipts of the acquiring corporation. Such gross receipts for any portion of a taxable year of the component corporation is determined in accordance with the rules provided in section 435 (e) (5) subject, for the taxable year of the transaction, to the principles described in § 40.461–3 (c).

In applying the foregoing rules, proper adjustment as to each item shall be made to prevent duplication, including the elimination of such portion of any item with respect to the component corporation or the acquiring corporation as is attributable to transactions between either such component corporation and the acquiring corporation or such component corporation and another component corporation.

(e) *Method of determination in case of transactions described in section 461 (a) (1) (E).* In the case of a transfer by a corporation of a part, as distinguished from all or substantially all, of its properties to a corporation created incident to such transfer in a transaction to which section 461 (a) (1) (E) is applicable, there shall be available to such acquiring corporation in determining its average base period net income under section 442, 443, 444, 445, or 446, only such portion of each item referred to in paragraph (d) of this section, as is allocable to the properties of such component corporation transferred to the acquiring corporation. Such portion shall be determined in a manner consistent with that used in the allocation to the acquiring corporation under section 462 (i) and § 40.462–9 of the excess profits net income of the component corporation.

(f) *Application for benefits of sections 442 to 446.* An acquiring corporation which computes its average base period net income under section 442, 443, 444, 445, or 446, and under section 462 (d), (e), (f), (g), or (h), must comply with the provisions of section 447 (e) with respect to the filing of an application for the benefits of such sections.

§ 40.462–4 *Application of section 442*—(a) *Part II transactions other than a transaction described in section 461 (a) (1) (E).* (1) In the case of a Part II transaction other than a transaction described in section 461 (a) (1) (E), which occurred during the base period of an acquiring corporation, the acquiring corporation shall be entitled to determine its average base period net income under section 442 (c) or (d) if and to the extent that it satisfies the requirements of either such subsection and satisfies the other requirements of section 442 after the application of the rules provided in § 40.462–3 (b) and (d) and of the following rules:

(i) For this purpose, the excess profits net income (or deficit therein) of the component corporation for any part of the base period of the acquiring corporation prior to the transaction is attributed to the acquiring corporation in determining the excess profits net income (or deficit therein) of the acquiring corporation for any month of its base period for the purpose of section 442 (c) or (d), and the acquiring corporation shall recompute its monthly excess profits net income as provided in section 462 (b); however, the excess profits net income of the acquiring corporation for any month so recomputed may be less than zero, and in such case, such deficit is taken into account to the extent provided in section 442;

(ii) For this purpose, the business experience of the component corporation prior to the date of the transaction is attributed to the acquiring corporation for the purpose of determining the existence of an abnormality under section 442 (a).

(2) If any corporation, a party to a Part II transaction other than a transaction described in section 461 (a) (1)

(E), which transaction occurs after the close of the base period of the acquiring corporation, was entitled immediately prior to the transaction to compute its average base period net income under section 442 (c) or under section 442 (d), then in recomputing the acquiring corporation's excess profits net income under section 462 (b) for the purpose of the general average method of determining its average base period net income under section 435 (d)—

(i) The substitute excess profits net income for any month identified under section 442 (c) (1) and (3) of any corporation entitled to the benefits of section 442 (c) immediately prior to the transaction shall be considered the excess profits net income of that corporation for such month;

(ii) In the case of any corporation entitled to the benefits of section 442 (d) immediately prior to the transaction, one-twelfth of the average base period net income, separately computed, to which such corporation was entitled under section 442 (d) shall be considered the excess profits net income of that corporation for each month of its base period.

(3) An acquiring corporation shall also be entitled to apply section 442 to the extent provided in § 40.462–3 (c), relating to a Part II transaction involving corporations each of which was previously entitled to the benefits of section 442 (d), 443, 444, 445, or 446.

(b) *Part II transactions described in section 461 (a) (1) (E).* (1) In the case of a Part II transaction described in section 461 (a) (1) (E), which occurred during the base period of an acquiring corporation, the acquiring corporation shall be entitled to determine its average base period net income under section 442 (c) or (d) if and to the extent that it satisfies the requirements of either such subsection and satisfies the other requirements of section 442 after the application of the rules prescribed in paragraph (a) (1) of this section, and in § 40.462–3 (b) and (e). In applying the rules of paragraph (a) (1) of this section, there shall be available to the acquiring corporation in determining its average base period net income under section 442 only such portion of each item of the component corporation's experience prior to the transaction as is allocable to the properties of such component corporation transferred to the acquiring corporation. Such portion shall be determined in a manner consistent with that used in the allocation to the acquiring corporation under section 462 (i) and § 40.462–9 of the excess profits net income of the component corporation.

(2) In the case of a Part II transaction described in section 461 (a) (1) (E), where the transaction occurs after the close of the base period of the acquiring corporation, and where the component corporation was entitled immediately prior to the transaction to compute its average base period net income under section 442 (c) or under section 442 (d), then in recomputing the acquiring corporation's excess profits net income under section 462 (b) for any month for the purpose of the general average method of determining its average base period net income under section 435 (d), the rules prescribed in paragraph (a) (2) of this section, shall be applicable, except that there shall be available to the acquiring corporation only such portion of the excess profits net income of the component corporation computed under paragraph (a) (2) of this section, as is allocable to the acquiring corporation under the rules of section 462 (i) and § 40.462–9.

(3) For special rules with respect to a Part II transaction described in section 461 (a) (1) (E) involving a transfer to an acquiring corporation not created incident to the transaction, or involving a transfer by more than one component corporation to an acquiring corporation, see § 40.461–7 (b).

§ 40.462–5 *Application of section 443*—(a) *Part II transactions other than a transaction described in section 461 (a) (1) (E).* (1) In the case of a Part II transaction, other than a transaction described in section 461 (a) (1) (E), where any corporation a party to the transaction (other than an acquiring corporation created incident to such transaction) had not actually commenced business on or before the first day of the acquiring corporation's base period, the acquiring corporation shall not be entitled to compute its average base period net income under section 443 except to the extent provided in § 40.462–3 (c), or to the extent provided in subparagraph (3) of this paragraph.

(2) In the case of a Part II transaction other than a transaction described in section 461 (a) (1) (E), where, at the time of the transaction, one or more of the corporations, parties to the transaction, had made a substantial change, within the meaning of section 443 (a) (1) and § 40.443–1 (a) (1), in the products or services which it furnished, but where such corporations at the time of the transaction were not yet qualified to compute their average base period net income under section 443, the acquiring corporation shall be entitled to compute its average base period net income under section 443 with respect to such change if the requirements of such section are satisfied after the application of the rules provided in § 40.462–3 (b) and (d) and of the following rules:

(i) For this purpose, the acquiring corporation shall recompute its excess profits net income in the manner provided in section 462 (b), except that the excess profits net income so recomputed may be less than zero;

(ii) For this purpose, the gross income and the net income of all component corporations for the taxable years beginning with, within, and subsequent to the taxable year in which the first change in products or services was made, such taxable year being determined by reference to the corporation which made such change, shall be treated as the gross income and net income, respectively, of the acquiring corporation;

(iii) For this purpose, each change in products or services made by a component corporation shall be treated as having been made by the acquiring corporation at the time it was made by the component corporation.

(3) Where a corporation a party to the Part II transaction commenced business during the 36-month period ending on the last day of the base period of the acquiring corporation and the transaction occurred prior to December 1, 1950, the activities of that corporation shall be treated, for the purpose of section 443, as though they constituted a substantial change in products or services within the meaning of section 443 (a) (1) and § 40.443–1 (a) (1). In such a case, the rules prescribed in subparagraph (2) of this paragraph, and in § 40.462–3 (b) and (d) shall be applicable for the purpose of determining whether or not the acquiring corporation meets the requirements of section 443.

(4) In the case of a Part II transaction other than one described in section 461 (a) (1) (E), where subsequent to the date of the transaction there is a substantial change in the products or services furnished by the acquiring corporation within the meaning of section 443 (a) (1) and § 40.443–1 (a) (1), the acquiring corporation shall be entitled to determine its average base period net income under section 443 with respect to such change if it qualifies under such section after the application of the rules prescribed in subparagraph (2) of this paragraph and in § 40.462–3 (b) and (d).

(5) Except to the extent provided in subparagraph (3) of this section, an acquiring corporation shall not be deemed, for the purpose of section 443, to have made a substantial change in products or services furnished by it solely by reason of a change in such products or services resulting from the execution of a Part II transaction.

(6) An acquiring corporation shall also be entitled to apply section 443 to the extent provided in § 40.462–3 (c), relating to a Part II transaction involving corporations each of which was previously entitled to the benefits of section 442 (d), 443, 444, 445, or 446.

(b) *Part II transactions described in section 461 (a) (1) (E).* (1) In the case of a Part II transaction described in section 461 (a) (1) (E), the acquiring corporation shall be entitled to compute its average base period net income under section 443 only—

(i) To the extent provided in § 40.462–3 (c); or

(ii) If there was, after the date of the transaction, a substantial change in the products or services furnished by the acquiring corporation within the meaning of section 443 (a) (1) and § 40.443–1 (a) (1), and if the acquiring corporation qualifies under section 443 after the application of the rules prescribed in paragraph (a) (2) of this section, and in § 40.462–3 (b) and (e). In applying the rules of paragraph (a) (2) of this section, there shall be available to the acquiring corporation in determining its average base period net income under section 443 only such portion of each item of the component corporation's experience prior to the transaction as is allocable to the properties of such component corporation transferred to the acquiring corporation. Such portion

shall be determined in a manner consistent with that used in the allocation to the acquiring corporation under section 462 (i) and § 40.462–9 of the excess profits net income of the component corporation.

(2) For special rules with respect to a Part II transaction described in section 461 (a) (1) (E) involving a transfer to an acquiring corporation not created incident to the transaction, or involving a transfer by more than one component corporation to an acquiring corporation, see § 40.461–7 (b).

§ 40.462–6 *Application of section 444*—(a) *Part II transactions other than a transaction described in section 461 (a) (1) (E).* (1) In the case of a Part II transaction other than a transaction described in section 461 (a) (1) (E), where at the time of the transaction one or more of the corporations, parties to the transaction, had made an addition or additions to its facilities or had replaced all or a part of its existing facilities, within the meaning of section 444 (b) and § 40.444–2, and where the transaction occurred prior to the close of the base period of the corporation making such addition or replacement, the acquiring corporation shall be entitled to compute its average base period net income under section 444, if the requirements of such section are satisfied after the application of the rules provided in § 40.462–3 (b) and (d) and of the following rules:

(i) For this purpose, the capacity for production or operation, the adjusted basis of the total facilities, and the basis (unadjusted) of the total facilities, determined in accordance with the rules applicable under section 444 (b) and § 40.444–2, of all component corporations as they existed on the day prior to the beginning of the 36-month period ending with the last day of the base period of the acquiring corporation, shall be treated as having been held by the acquiring corporation on such day for the purpose of determining whether an increase in capacity for production or operation shall be deemed to have occurred within the meaning of section 444 (b) and § 40.444–2;

(ii) For this purpose, each addition or additions to its facilities or replacement of all or part of its existing facilities by a component corporation shall be treated as having been made by the acquiring corporation at the time it was made by such component corporation;

(iii) For this purpose, if the Part II transaction occurred before the close of the base period of the acquiring corporation and after the last day of the taxable year of the acquiring corporation immediately preceding its first taxable year ending after June 30, 1950, then the computation under section 444 (c) (1) (relating to the determination of total assets) shall be made by reference to the last day of such base period, and the 12-month period referred to in section 444 (c) (2) (relating to the interest adjustment) shall be the 12-month period ending with the last day of such base period. See section 461 (d).

(2) Where a corporation a party to the Part II transaction commenced business during the 36-month period ending on the last day of the base period of the acquiring corporation and the Part II transaction occurred during the base period of the acquiring corporation, the acquisition of facilities by that corporation shall be treated, for the purpose of section 444, as though they constituted an addition or additions to facilities within the meaning of section 444 (b) and § 40.444–2. In such a case, the rules prescribed in subparagraph (1) of this paragraph and in § 40.462–3 (b) and (d) shall be applicable for the purpose of determining whether or not the acquiring corporation meets the requirements of section 444.

(3) In the case of a Part II transaction other than one described in section 461 (a) (1) (E), where subsequent to the date of the transaction there is an addition or additions to its facilities or a replacement of all or part of its existing facilities within the meaning of section 444 (b) and § 40.444–2, the acquiring corporation shall be entitled to determine its average base period net income under section 444 if it qualifies under such section after the application of the rules prescribed in subparagraph (1) of this paragraph and in § 40.462–3 (b) and (d).

(4) Except to the extent provided in subparagraph (2) of this paragraph, an acquiring corporation shall not be deemed, for the purpose of section 444, to have made an addition or additions to its facilities or to have replaced all or part of its facilities solely by reason of the additions or replacements to its facilities resulting from the execution of a Part II transaction.

(5) An acquiring corporation shall also be entitled to apply section 444 to the extent provided in § 40.462–3 (c), relating to a Part II transaction involving corporations each of which was previously entitled to the benefits of section 442 (d), 443, 444, 445, or 446.

(b) *Part II transactions described in section 461 (a) (1) (E).* (1) In the case of a Part II transaction described in section 461 (a) (1) (E), the acquiring corporation shall be entitled to compute its average base period net income under section 444 only—

(i) To the extent provided in § 40.462–3 (c); or

(ii) If there was, after the date of the transaction, an addition or additions to its facilities or a replacement of all or part of its existing facilities by the acquiring corporation within the meaning of section 444 (b) and § 40.444–2, and if the acquiring corporation qualifies under section 444 after the application of the rules prescribed in paragraph (a) (1) of this section, and in § 40.462–3 (b) and (e). In applying the rules of paragraph (a) (1) of this section, there shall be available to the acquiring corporation in determining its average base period net income under section 444 only such portion of each item of the component corporation's experience prior to the transaction as is allocable to the properties of such component corporation transferred to the acquiring corporation. Such portion shall be determined in a manner consistent with that used in the allocation to the acquiring corporation under section 462 (i) and § 40.462–9 of the excess profits net income of the component corporation.

(2) For special rules with respect to a Part II transaction described in section 461 (a) (1) (E) involving a transfer to an acquiring corporation not created incident to the transaction, or involving a transfer by more than one component corporation to an acquiring corporation, see § 40.461–7 (b).

§ 40.462–7 *Application of section 445*—(a) *Part II transactions other than a transaction described in section 461 (a) (1) (E).* (1) In the case of a Part II transaction other than a transaction described in section 461 (a) (1) (E), which occurred during the base period of the acquiring corporation, such acquiring corporation shall be entitled to compute its average base period net income under section 445, in the manner provided therein, if the requirements of such section are satisfied after the application of the rules provided in § 40.462–3 (b) and (d). In such a case, for the purpose of the computations under section 445 (see § 40.445–2), the taxable year of the acquiring corporation in which it is deemed to have commenced business under section 461 (d) (see § 40.461–4) and its two immediately succeeding taxable years shall be considered to be its first three taxable years.

(2) In the case of a Part II transaction other than a transaction described in section 461 (a) (1) (E), which occurred after the close of the base period of the acquiring corporation, if the requirements of section 445 are satisfied after the application of the rules provided in § 40.462–3 (b) and (d), the average base period net income of the acquiring corporation after the transaction shall be determined, for the purpose of section 445, by whichever of the following three methods is applicable:

(i) Where the transaction occurs after the close of the third taxable year ending after the actual commencement of business of both the component corporation and the acquiring corporation (other than an acquiring corporation created incident to the transaction), the average base period net income of the acquiring corporation after the transaction shall be determined, in lieu of the manner provided by section 445, by adding together the average base period net income of the acquiring corporation and of the component corporation as separately determined under section 445 in each instance as of the first day of the fourth taxable year of the corporation; or

(ii) Where the transaction occurs prior to the close of the third taxable year ending after the actual commencement of business of either the acquiring corporation or the component corporation, but after the close of the third such taxable year of one such corporation, the average base period net income of the acquiring corporation after the transaction shall be determined, in lieu of the manner provided by section 445, by adding together (*a*) the average base period net income determined under section 445 as of the first day of the fourth such taxable year of the corporation in business for more than three taxable

years at the time of the transaction, and (b) an average base period net income for the corporation not in business for three taxable years at the time of the transaction, computed under section 445 as though the day immediately prior to the transaction were the first day of such corporation's fourth taxable year; or

(iii) Where the transaction occurs prior to the close of the third taxable year after the actual commencement of business of both the acquiring corporation and the component corporation, the average base period net income of the acquiring corporation after the transaction shall be determined by the method specified in section 445. In such a case, for the purpose of the computations under section 445 (see § 40.445–2), the taxable year of the acquiring corporation in which it is deemed to have commenced business under section 461 (d) (see § 40.461–4) and its two immediately succeeding taxable years shall be considered to be its first three taxable years. In making such computation under section 445, the net capital addition or reduction specified in section 445 (c) shall be the net capital addition or reduction of the acquiring corporation determined under the principles of section 463 and § 40.463–1.

(3) An acquiring corporation shall also be entitled to apply section 445 to the extent provided in § 40.462–3 (c), relating to a Part II transaction involving corporations each of which was previously entitled to the benefits of section 442 (d), 443, 444, 445, or 446.

(b) *Part II transactions described in section 461 (a) (1)–(E).* (1) In the case of a Part II transaction described in section 461 (a) (1) (E), which occurred during the base period of the acquiring corporation, such acquiring corporation shall be entitled to compute its average base period net income under section 445, in the manner provided therein, if the requirements of such section are satisfied after the application of the rules provided in § 40.462–3 (b) and (e). In such a case, for the purpose of the computations under section 445 (see § 40.445–2), the taxable year of the acquiring corporation in which it is deemed to have commenced business under section 461 (d) (see § 40.461–4) and its two immediately succeeding taxable years shall be considered to be its first three taxable years.

(2) In the case of a Part II transaction described in section 461 (a) (1) (E), which occurred after the close of the base period of the acquiring corporation, if the requirements of section 445 are satisfied after the application of the rules provided in § 40.462–3 (b) and (e), the average base period net income of the acquiring corporation after the transaction shall be determined, for the purpose of section 445, by whichever of the following methods is applicable:

(i) Where the transaction occurred after the close of the third taxable year ending after the actual commencement of business of the component corporation, the average base period net income of the acquiring corporation after the transaction shall be that portion of the average base period net income of the component corporation, determined under section 445, which is allocable to the acquiring corporation under section 462 (i) and § 40.462–9; or

(ii) Where the transaction occurs prior to the close of the third taxable year ending after the actual commencement of business of the component corporation, the average base period net income of the acquiring corporation after the transaction shall be determined by the methods specified in section 445 after the application of the rules prescribed in paragraph (a) (2) (iii) of this section. In applying the rules of paragraph (a) (2) (iii) of this section, there shall be available to the acquiring corporation in determining its average base period net income under section 445 only such portion of each item of the component corporation's experience prior to the transaction as is allocable to the properties of such component corporation transferred to the acquiring corporation. Such portion shall be determined in a manner consistent with that used in the allocation to the acquiring corporation under section 462 (i) and § 40.462–9 of the excess profits net income of the component corporation. For the purpose of the computations under section 445 (see § 40.445–2), the taxable year of the acquiring corporation in which it is deemed to have commenced business under section 461 (d) (see § 40.461–4) and its two immediately succeeding taxable years shall be considered to be its first three taxable years.

(3) For special rules with respect to a Part II transaction described in section 461 (a) (1) (E) involving a transfer to an acquiring corporation not created incident to the transaction, or involving a transfer by more than one component corporation to an acquiring corporation, see § 40.461–7 (b).

§ 40.462–8 *Application of section 446—(a) Part II transactions other than a transaction described in section 461 (a) (1) (E).* (1) In the case of a Part II transaction other than a transaction described in section 461 (a) (1) (E), which occurred prior to the close of the base period of the acquiring corporation, the acquiring corporation shall be entitled to compute its average base period net income under section 446 if the requirements of such section are satisfied after the application of the rules provided in § 40.462–3 (b) and (d).

(2) An acquiring corporation shall also be entitled to apply section 446 to the extent provided in § 40.462–3 (c), relating to a Part II transaction involving corporations each of which was previously entitled to the benefits of section 442 (d), 443, 444, 445, or 446.

(b) *Part II transactions described in section 461 (a) (1) (E).* (1) In the case of a Part II transaction described in section 461 (a) (1) (E), the acquiring corporation shall be entitled to compute its average base period net income under section 446 only—

(i) To the extent provided in § 40.462–3 (c); or

(ii) If the transaction occurred during the base period of the acquiring corporation, and if the acquiring corporation qualifies under section 446 after the application of the rules prescribed in § 40.462–3 (b) and (e).

(2) For special rules with respect to a Part II transaction described in section 461 (a) (1) (E) involving a transfer to an acquiring corporation not created incident to the transaction, or involving a transfer by more than one component corporation to an acquiring corporation, see § 40.461–7 (b).

§ 40.462–9 *Allocation rules in the case of Part II transactions described in section 461 (a) (1) (E)*—(a) *General rule.* (1) In the case of a Part II transaction described in section 461 (a) (1) (E) (that is, a transaction in which a part, as distinguished from all or substantially all, of the properties of a component corporation is transferred to an acquiring corporation, or in which all or substantially all of the properties of a component corporation are transferred to two or more acquiring corporations), the base period experience of the component corporation immediately prior to the transaction is allocated among the corporations in business after the transaction in proportion to the ratio that the fair market value of the properties of the component corporation which are held immediately after the transaction by each of the corporations which were parties to the transaction, bears to the fair market value of the total assets of the component corporation as they existed immediately prior to the transaction. This general rule of allocation is used in determining that part of the excess profits net income, or substitute excess profits net income if computed under section 442 (c), of the component corporation for any month prior to the transaction which may be used after the transaction by a surviving component corporation or, in recomputing its excess profits net income under section 462 (b), by the acquiring corporation subject, for the taxable year of the transaction, to the principles described in § 40.461–3 (c). This rule of allocation is also used in determining that portion of an alternative average base period net income determined under sections 442 (d), 443, 444, 445, or 446, to which the component corporation was entitled immediately prior to the transaction which may be availed of by the acquiring corporation under the rules set forth in §§ 40.462–3 to 40.462–8, inclusive. This rule is also applied wherever it is appropriate under such sections to allocate some particular item of the component corporation's base period experience prior to the Part II transaction, for example, its total assets, gross receipts, gross income, payroll, or net income. For rules of allocation as to net capital additions or reductions, see section 463 and § 40.463–1, and as to base period capital additions, see section 464 and § 40.464–1.

(2) For the purpose of subparagraph (1) of this paragraph, a determination of the fair market value of the properties of the component corporation immediately prior to the transaction described in section 461 (a) (1) (E) and the fair market value of the properties of the component corporation held after the transaction by each of the corporations

which are parties to the transaction, may be made by agreement between all persons (corporate or otherwise) which are parties to the transaction, where the Commissioner agrees thereto. The following rules are applicable to any such agreement:

(i) The agreement shall be in writing, shall fully describe the transaction involved, shall set forth in detail the facts upon which the parties rely in the determination of the fair market value of the properties, and shall be signed by each party to the Part II transaction.

(ii) Subject to subsequent approval by the Commissioner, a taxpayer which has made such an agreement may compute its tax on its return pursuant to such agreement, providing that the original agreement (or a duplicate original) is attached to the return. If the return is filed prior to the agreement, the original agreement (or a duplicate original) shall be attached to a claim for refund if the application of the agreement results in an overpayment, or to an amended return if the application of the agreement does not result in an overpayment.

(iii) In any case in which such an agreement is approved by the Commissioner, the fair market value of the properties and the allocation of the excess profits net income or average base period net income determined in such agreement shall be binding upon all parties to such agreement for the taxable year for which the determination is made and for all subsequent taxable years.

(3) In no case shall the aggregate of the allocated portions of the excess profits net income be in excess of 100 percent of the excess profits net income of the component corporation immediately prior to the transaction. Similarly, the aggregate of the allocated portions of the average base period net income shall not exceed 100 percent of the average base period net income of the component corporation immediately prior to the transaction. This limitation shall apply in the case of any other item which is allocated among the parties.

(b) *Alternative rule.* (1) In lieu of the allocation provided in paragraph (a) of this section, based on the fair market value of the properties, an allocation of base period experience may be made on the basis of the actual base period experience of the properties transferred to the acquiring corporation and of the properties retained by the component corporation, if all the parties to the transaction agree thereto and if it is established to the satisfaction of the Commissioner that such an allocation fairly represents an identifiable base period experience of each such group of assets transferred or retained. The following rules are applicable to any such agreement:

(i) The agreement shall be in writing, shall fully describe the transaction involved, shall set forth in detail the facts upon which the taxpayers rely in the determination of the base period experience of the properties transferred or retained and in the determination of the allocations based thereon, and shall be signed by each party to the Part II transaction.

(ii) The alternative rule of allocation shall only be available where the transferred assets and the retained assets each constituted, at all times involved in such allocations, a going business unit for which adequate and separate records were maintained.

(iii) Subject to subsequent approval by the Commissioner, a taxpayer which has made such an agreement may compute its tax on its return pursuant to such agreement, providing that the original agreement (or a duplicate original) is attached to the return. If the return is filed prior to the agreement, the original agreement (or a duplicate original) shall be attached to a claim for refund if the application of the agreement results in an overpayment, or to an amended return if the application of the agreement does not result in an overpayment.

(iv) In any case in which such an agreement is approved by the Commissioner, the allocations of base period experience determined in such agreement shall be binding upon all parties to such agreement for the taxable year for which the determination is made and for all subsequent taxable years.

(2) In no case shall the aggregate of the allocated portions of the excess profits net income or average base period net income exceed 100 percent of the excess profits net income or average base period net income, as the case may be, of the component corporation immediately prior to the transaction, unless the component corporation is a partnership and the transaction occurred before December 1, 1950. Thus, only in the case of a partnership may more than 100 percent of the excess profits net income of the component corporation be allocated to one party to the transaction by reason of a deficit in excess profits net income allocable to another party to the transaction.

§ 40.462–10 *Limitations under section 462 (j) (1) in case of certain stock acquisitions*—(a) *In general.* (1) Section 462 (j) (1) is designed to prevent certain duplications in base period income and transferred capital additions and reductions in certain cases where after December 31, 1945, assets of the taxpayer (or of a corporation which later becomes its component) are transferred for stock in another corporation which later becomes a component of the taxpayer. Section 462 (j) (1) contemplates that, after the Part II transaction, the component corporation's excess profits net income (including its excess profits net income determined under section 462 (c) (1) (B) or (d) (2) (B)), attributable to the acquired stock, for any month or part thereof before the acquisition of its stock shall be excluded in determining the taxpayer's average base period net income with reference to the recomputations provided under Part II. Similar exclusions are set forth in paragraph (d) of this section, with respect to other items involved in such recomputations of the base period experience of the component corporation. The adjustment under section 462 (j) (1) shall be made in the cases described in this section, and in all other cases to which section 462 (j) (1) may be applicable, in the manner consistent with the principles underlying such described cases.

(2) Except to the extent duplication of experience occurs, no adjustment is necessary under section 462 (j) (1) if, in view of all the circumstances of the transaction in which the stock of the component corporation is acquired, it is determined that no assets have left the group as a result of the transaction; for example—

(i) Where stock of the component corporation is acquired directly from the component corporation;

(ii) Where stock of the component corporation is acquired through the use of money obtained, for the purpose of such acquisition, through a bona fide increase in the capital structure (whether equity or borrowed) of the acquiring corporation, as in a case in which the acquiring corporation, for the purpose of the acquisition, issued stock or bonds for cash which it used to acquire the stock of the component corporation.

(3) The rules for the application of section 462 (j) (1) for the purpose of computing under Part II any average base period net income under the general average method (see section 435 (d) and section 462 (a)), under the alternative based on growth (see section 435 (e) and section 462 (c)), and under sections 442 through 446 and 462 (d) through (h) (see §§ 40.462–3 through 40.462–8) are set forth in this section. As to determination of excess profits net income for the purpose of section 462 (b) (2) (for any vacant month) under the limitations of section 462 (j) (1), see § 40.462–1 (b) (3) (ii). As to adjustment under section 462 (j) (1) of the net capital addition or reduction, see § 40.463–1 (e), and as to adjustment under section 462 (j) (1) of the base period capital addition, see § 40.464–1 (e). For treatment of cases involving sections 442 through 446 and section 462 (d) through (h), see paragraph (d) of this section.

(b) *Examples.* The general application of section 462 (j) (1) for the purpose of section 435 (d) or (e) may be illustrated by the following examples:

Example (1). The A Corporation and the B Corporation commenced business before January 1, 1946, and make their income tax returns on the calendar year basis. The A Corporation sold certain assets for cash, and on January 1, 1947, it used such cash to purchase all of the stock of the B Corporation from the stockholders of the B Corporation. On December 31, 1949, the A Corporation acquired all of the assets of the B Corporation in a Part II transaction. In determining the A Corporation's average base period net income under section 435 (d) or (e), the excess profits net income (or deficit) of the A Corporation will be determined under section 462 (b) without regard to the excess profits net income (or deficit) of the B Corporation for 1946.

Example (2). The C Corporation and the D Corporation commenced business before January 1, 1946, and make their income tax returns on the calendar year basis. The C Corporation sold certain assets for cash, and on January 1, 1951, it used such cash to purchase all of the stock of the D Corporation from the stockholders of the D Corporation. On December 31, 1951, the C Corporation acquired all of the assets of the D Corporation in a Part II transaction. In applying section 462 (b) or (c) in determining the average base period net income of the C Corporation, section 462 (j) (1) requires the exclusion of the D Corporation's entire experi-

ence for the base period, and also for the additional period up to June 30, 1950, for certain cases under section 435 (e). The D Corporation's base period capital addition and its net capital addition or reduction for 1950 are also required to be excluded. See §§ 40.463–1 and 40.464–1.

Example (3). The E Corporation commenced business before January 1, 1946, and makes its income tax returns on the calendar year basis. The F Corporation was organized on January 10, 1948. On January 15, 1948, the F Corporation issued its stock and bonds for cash, and on the same day, it used such cash to acquire all of the stock of the E Corporation from the stockholders of the E Corporation. On January 1, 1951, the F Corporation acquired all of the assets of the E Corporation in a Part II transaction. In determining the F Corporation's average base period net income under section 435 (d) or (e), based on a recomputation of its excess profits net income under section 462 (b), section 462 (j) (1) does not require the elimination of any part of the excess profits net income (or deficit) of the E Corporation for any part of its base period. See paragraph (a) (2) of this section. Under section 464, however, the F Corporation will not be allowed any base period capital addition for the cash paid in for its stock and bonds which was used in acquiring the stock of the E Corporation. See § 40.464–1.

Example (4). The G Corporation commenced business before January 1, 1946. The H Corporation was organized on January 15, 1948, and on the same day it issued its capital stock to the G Corporation in return for cash which was previously used by the G Corporation in its business. Shortly thereafter the H Corporation acquired the stock of the I Corporation from the stockholders of the I Corporation in return for the cash received from the G Corporation. The I Corporation had commenced business before January 1, 1946. Each corporation makes its income tax returns on the calendar year basis. On January 1, 1950, the G Corporation acquired all of the assets of the H Corporation and of the I Corporation in a Part II transaction. In determining the G Corporation's average base period net income under section 435 (d) or 435 (e), based on a recomputation of its excess profits net income under section 462 (b), section 462 (j) (1) requires the exclusion of the excess profits net income (or deficit) of the I Corporation for 1946 and 1947. A similar exclusion applies with respect to the H Corporation. See § 40.462–1 (b) (3) (ii). Under section 464, the H Corporation will not be allowed any base period capital addition for the money paid in by the G Corporation in return for the stock of the H Corporation. See § 40.464–1.

(c) *Special rules*—(1) *Partial acquisitions of stock.* In cases in which the taxpayer does not at one time or at any time prior to the Part II transaction acquire all of the other corporation's stock, only that part of the component corporation's base period experience before the acquisition which is attributable to the stock so acquired is to be excluded in computing the taxpayer's average base period net income under section 435 (d) or (e), based on a recomputation of its excess profits net income under section 462 (b). In cases in which the component corporation had a fixed number of shares of only one class of stock outstanding at all times prior to the Part II transaction, the portion of the component corporation's experience to be excluded under section 462 (j) (1) with respect to any part of the base period (and of the additional period through June 30, 1950, in certain cases under section 435 (e)), prior to the day of any such acquisition is an amount which bears the same ratio to the whole of the component corporation's experience for such part of such period as the number of shares of such stock acquired by the taxpayer after such part, and not disposed of prior to the Part II transaction, bears to the aggregate number of such shares outstanding at the time of the acquisition of such stock. If any of such shares of stock, whether acquired before or after the beginning of the base period, were disposed of prior to the Part II transaction, the shares disposed of shall, for the purpose of this computation, be deemed to be those most recently acquired. The adjustment under section 462 (j) (1) in cases described in this paragraph may be illustrated by the following examples:

Example (1). The J Corporation and the K Corporation commenced business before January 1, 1946, and make their income tax returns on the calendar year basis. The outstanding capital stock of the K Corporation consists of 1,000 shares, all of one class. On January 1, 1947, the J Corporation purchased for cash 510 shares of such stock from the stockholders of the K Corporation. The purchase was not of a type described in paragraph (a) (2) of this section. On December 31, 1951, the J Corporation issued stock in exchange for the balance of the stock of the K Corporation and acquired all of the assets of the K Corporation in a Part II transaction. For the purpose of computing the J Corporation's average base period net income under section 435 (d) or (e), based on a recomputation of its excess profits net income under section 462 (b), 51 percent of the K Corporation's excess profits net income (or deficit) for 1946 is to be excluded under section 462 (j) (1).

Example (2). Assume the same facts as in example (1), above, and the additional fact that on January 1, 1948, the J Corporation purchased for cash (which purchase was not of the type described in paragraph (a) (2) of this section) 340 additional shares of the K Corporation from the stockholders of the latter, making its total stock holding in the K Corporation 850 shares prior to the issuance of the J Corporation's own stock for the balance of the stock of the K Corporation and prior to the Part II transaction. There shall be excluded under section 462 (j) (1) an amount equal to 85 percent (51 percent plus 34 percent) of the K Corporation's excess profits net income (or deficit) for 1946 and 34 percent of its excess profits net income (or deficit) for 1947.

Example (3). Assume the same facts as in example (2) above, and the additional fact that on January 1, 1949, the J Corporation sold 350 shares of the K Corporation's stock to various individuals. Accordingly, immediately prior to the issuance of the J Corporation's own stock for the balance of the stock of the K Corporation and prior to the Part II transaction, the J Corporation will own 500 shares of the stock of the K Corporation acquired for assets since December 31, 1945. Therefore, 50 percent of the K Corporation's excess profits net income (or deficit) for 1946 will be excluded under section 462 (j) (1). No portion of such experience for 1947, 1948, or 1949 will be excluded since the 350 shares sold are presumed to include all of the 340 shares acquired on January 1, 1948 (as in example (2)), and only 10 shares of the 510 shares acquired on January 1, 1947.

Example (4). Assume the same facts as in example (1), (2), and (3), except that the original acquisition of 510 shares of the K Corporation's stock occurred prior to January 1, 1946. No adjustment will be necessary under section 462 (j) (1) because the 350 shares disposed of on January 1, 1949, are deemed to be out of the most recently acquired shares, including in this case all of the shares acquired since December 31, 1945, that is, the 340 shares acquired on January 1, 1948.

(2) *More than one class of stock.* Where the corporation whose stock is acquired has at the time of such acquisition more than one class of stock outstanding and the taxpayer does not, prior to the Part II transaction, acquire all of the stock of all classes for assets (other than its own stock), the experience for the base period (and for the additional period through June 30, 1950, in certain cases under section 435 (e)) of the component corporation which is to be excluded under section 462 (j) (1) must be determined upon the basis of the earnings which may be attributed to each class of stock. Where preferred stock is nonvoting and is also limited and preferred as to dividends, the base period excess profits net income may be allocated first to the preferred stock on the basis of the prescribed dividend rate per share. If the only other class is common stock, the balance of such excess profits net income may be allocated to the common stock. The portion of such base period excess profits net income which is attributable to the stock owned by the acquiring corporation is that portion of such base period excess profits net income allocated to the class to which such stock belongs proportionate to the number of shares of such class acquired by the acquiring corporation after December 31, 1945. This rule may be illustrated by the following example:

Example. The L Corporation commenced business before January 1, 1946, and makes its income tax returns on the calendar year basis. It has had outstanding at all times the following shares: 5,000 shares of nonvoting preferred stock of a par value of $100 per share, limited and preferred as to dividends to the extent of $6 per share annually; and 10,000 shares of no-par value common stock possessing sole voting power.

On January 1, 1948, the M Corporation purchased for cash (which purchase was not of a type described in (a) (2), above) 6,000 shares of the L Corporation's common stock from the stockholders of the L Corporation. The excess profits net income of the L Corporation for 1946 and 1947 was $100,000 each year. Of this amount, $30,000, representing the prescribed dividend rate of $6 a share on 5,000 shares, is allocable to the preferred stock. Of the balance of $70,000 which is allocable to the common stock, 60 percent (the ratio of the 6,000 shares of common stock acquired by the M Corporation since December 31, 1945, to the total of 10,000 shares of such stock outstanding), or $42,000, will be considered attributable to the stock so acquired by the M Corporation. Therefore, if the M Corporation subsequently acquired all of the assets of the L Corporation in a Part II transaction (no stock of the L Corporation having been purchased or disposed of in the interval), $42,000 of the L Corporation's excess profits net income for 1946 and 1947 is to be excluded under section 462 (j) (1) in computing the average base period net income of the M Corporation under section 435 (d) or (e), based on a recomputation of its excess profits net income under section 462 (b). If the L Corporation had a deficit in excess profits net income for either 1946 or 1947, or for both, such deficit would be considered attributable solely to the common stock for purposes of determin-

ing the portion to be excluded under section 462 (j) (1).

(3) *Stock acquisition during year.* If the acquisition of stock by the acquiring corporation occurs during a taxable year of the component corporation, which taxable year is a factor in determining the base period experience of the component corporation, the exclusion required by section 462 (j) (1) will apply, after the determination of the amount of the component corporation's excess profits net income (or deficit) for each month of such taxable year, to the amount so determined for each month prior to the acquisition, and, in the case of the month in which the acquisition was made, will apply to the part of the amount for such month proportionate to the number of days of such month prior to the date of the acquisition. In the case of an acquisition of stock in the same taxable year in which the Part II transaction occurred, see § 40.461–3 (c) for the principles applicable to the determination of the excess profits net income (or deficit) for the taxable year and for each month thereof.

Example. Corporation N and Corporation O commenced business before January 1, 1946, and make their income tax returns on the calendar year basis. Corporation N purchased all of the stock of Corporation O from the latter's stockholders on July 12, 1948, in a transaction to which section 462 (j) (1) is applicable, and on December 31, 1952, it acquired all of the assets of Corporation O in a Part II transaction. The excess profits net income (or deficit) of Corporation O for each month in 1948 is first determined without regard to the exclusion required by section 462 (j) (1). Under sections 462 (j) (1), the excess profits net income (or deficit) of Corporation O for 1946, for 1947, and for each month in 1948 prior to July is not available to Corporation N. Similarly, there is not available to Corporation N so much of the excess profits net income (or deficit) of Corporation O for July 1948 as the number of days prior to the data of the acquisition is of the total number of days in such month (11/31 of the excess profits net income (or deficit) for July).

(4) *Stock acquired for stock.* Section 462 (j) (1) does not apply where stock of one corporation is acquired by another corporation solely in exchange for the latter's stock. In case stock is acquired in exchange partly for the acquiring corporation's own stock and partly for other property, section 462 (j) (1) is applicable only to the extent that the acquisition is attributable to such other property. Stock which has, in the hands of the taxpayer, a basis determined with reference to the basis of stock previously acquired by the issuance of the taxpayer's own stock shall be considered as having been acquired in consideration of the issuance of the taxpayer's own stock. These rules may be illustrated by the following examples:

Example (1). Corporation P acquires, after December 31, 1945, stock in Corporation Q in exchange solely for the stock of Corporation P. In a subsequent nontaxable reorganization, Corporation P receives new shares of Corporation Q in exchange for the original shares. If the new shares take the basis of the original shares, the new shares are considered, for the purpose of section 462 (j) (1), to have been acquired for the stock of Corporation P, and such section is inapplicable.

Example (2). Corporations R and S commenced business before January 1, 1946. On January 1, 1947, Corporation R acquired all of the stock of Corporation S from the latter's stockholders in exchange for stock of Corporation R. On January 1, 1948, in a nontaxable reorganization, Corporation T was organized and acquired all the assets of Corporation S in exchange for Corporation T's stock. In connection with this reorganization, Corporation R exchanged its stock in Corporation S for all of the stock in Corporation T, and Corporation S was dissolved. On December 31, 1949, Corporation R acquired all of the assets of Corporation T in a Part II transaction. For the purpose of section 462 (j) (1), the stock in Corporation T acquired by Corporation R is regarded as having been acquired for its own stock and, therefore, no adjustment is required under section 462 (j) (1).

(5) *Multiple components.* Section 462 (j) (1) also applies in cases in which a component corporation (referred to as the "first corporation") of the taxpayer transfers assets for the stock in a corporation (referred to as the "second corporation") and both corporations become component corporations of the taxpayer (the second corporation becoming a component corporation either directly or as a component corporation of the first corporation). The statute also applies to any other corporation which becomes a component corporation of the taxpayer and which at the time of a stock acquisition by the taxpayer or first corporation (under the circumstances described in section 462 (j) (1) (A) or (B) was connected, directly or indirectly, through stock ownership with the corporation the stock of which was acquired. In the case of such a corporation connected through stock ownership, the statute applies regardless of the manner of acquisition of the stock of such connected corporation held at such time (for example, whether or not acquired for a consideration other than the issuance of stock). The statute also applies regardless of the date before such time that the corporation holding such stock, directly or indirectly, acquired such stock of such connected corporation. That is, it is immaterial whether the stock of such connected corporation held at such time was acquired before, on, or after December 31, 1945, as long as such stock was acquired before the time the acquisition of stock of the corporation to which it was so connected occurred in a transaction described in section 462 (j) (1) (A) or (B). In the case of any such corporation connected through stock ownership at such time, the amount of its excess profits net income (or deficit) which is to be eliminated under section 462 (j) (1) is to be determined by reference to that part of such amount which is attributable to the period prior to such time and which is attributable to the stock held, directly or indirectly, at such time, and not disposed of thereafter, by the corporation the stock of which was acquired at such time by the taxpayer or first corporation. Such experience to be eliminated is to be attributed to the period prior to such time and to such stock so held upon the basis of the principles previously stated in this section. To the extent that the stock of a corporation (later to become a component corporation) was not so held at such time but was subsequently acquired, after December 31, 1945, by the taxpayer or another corporation (a first or second corporation), for assets of the latter, the base period experience of such corporation is to be excluded in accordance with the rules previously set forth in this section for excluding the experience of a component corporation when the latter's stock is acquired after December 31, 1945, for such assets by the taxpayer. The application of these rules in such cases is illustrated by the following examples:

Example (1). The U, V, W, and X Corporations commenced business before January 1, 1946, and make their income tax returns on the calendar year basis. The V Corporation commenced business on January 1, 1945, and issued all of its stock to the stockholders of the W Corporation for the stock of the latter. On January 1, 1947, the V Corporation purchased for cash (which purchase was not of a type described in paragraph (a) (2) of this section) all of the stock of the X Corporation from stockholders of the X Corporation. On January 1, 1948, the U Corporation purchased for cash (which purchase was not of a type described in paragraph (a) (2) of this section) all of the stock of the V Corporation from the latter's stockholders. On December 31, 1950, the U corporation acquired all of the assets of the V, W, and X Corporations in a Part II transaction. In computing the average base period net income of the U Corporation under section 435 (d) or (e), based on a recomputation of its excess profits net income under section 462 (b), there is to be excluded under section 462 (j) (1) the experience of the V, W, and X Corporations for 1946 and 1947.

Example (2). Assume the same facts as in example (1), above, except that the V Corporation made the acquisition of the X Corporation's stock on January 1, 1949 (after the acquisition by the U Corporation of the stock of the V Corporation). There is to be excluded under section 462 (j) (1) the experience of both the V and W Corporations for 1946 and 1947 and the experience of the X Corporation for 1946, 1947, and 1948.

Example (3). The W, X, Y, and Z Corporations commenced business in 1945 and make their income tax returns on the calendar year basis. In July, 1945, the X Corporation acquired 50 percent of the stock of the Y Corporation from the stockholders of the latter. On January 1, 1947, the W Corporation purchased for cash (which purchase was not of a type described in paragraph (a) (2) of this section) all of the stock of the X Corporation from the latter's stockholders. On January 1, 1948, the X Corporation similarly purchased for cash the remaining 50 percent of the stock of the Y Corporation from other stockholders of the latter. On January 1, 1949, the Y Corporation similarly purchased for cash all of the stock of the Z Corporation from the latter's stockholders. On December 31, 1949, the W Corporation acquired all of the assets of the X, Y, and Z Corporations in a Part II transaction. In computing the average base period net income of the W Corporation under section 435 (d) or (e), based on a recomputation of its excess profits net income under section 462 (b), there is to be excluded all of the experience of the X Corporation for 1946. There is also to be excluded all of the experience of the Y Corporation for 1946, one-half of such experience being excluded because of the 50 percent ownership of its stock by the X Corporation at the time the stock of the X Corporation was acquired by the W Corporation and the other half being excluded because of the subsequent acquisition of the other 50 percent of the stock of the Y Corporation by the X Corpo-

ration. One-half of the experience of the Y Corporation for 1947 is also to be excluded because of the acquisition of one-half of its stock on January 1, 1948, by the X Corporation. The entire experience of the Z Corporation for 1946, 1947, and 1948 is to be excluded because of the acquisition from the stockholders of the Z Corporation on January 1, 1949, of the stock of the Z Corporation by the Y Corporation.

(d) *Application of section 462 (j) (1) for the purpose of section 462 (d) through (h)*—(1) *General rule.* The rules of paragraphs (a), (b), and (c) of this section, shall be applied except to the extent modified by subparagraph (2) of this paragraph, where after a Part II transaction following a stock acquisition covered by section 462 (j) (1) the acquiring corporation determines its average base period net income through the application of the provisions of section 462 (d) through (h). See §§ 40.462–3 through 40.462–8.

(2) *Special rules.* (i) In applying § 40.462–3 (c), relating to a Part II transaction involving corporations each of which was previously entitled to the benefits of section 442 (d), 443, 444, 445, or 446, no adjustment of the average base period net income separately computed for each such corporation immediately prior to the transaction is necessary under section 462 (j) (1) if the stock of the component corporation was acquired by the acquiring corporation before, and was held by it on, the day (or each day in the case of section 442 (d) or 446) for which total assets are determined for the purpose of determining the average base period net income of the acquiring corporation separately computed immediately prior to the transaction. If the stock is acquired by the acquiring corporation after such day (or after the last of such days in the case of section 442 (d) or 446), the average base period net income separately computed for the component corporation shall not be available to the acquiring corporation for the purpose of § 40.462–3 (c). If the acquiring corporation separately computes under section 442 (d) or 446 its average base period net income immediately prior to the transaction, and if the stock is acquired after the first and prior to the last day for which total assets are determined for the purpose of such computation under section 442 (d) or 446, then section 462 (j) (1) requires the elimination of so much of the average base period net income of the component corporation as the number of such days, for each of which total assets are determined, before the acquisition of the stock is to the total number of such days for each of which total assets are determined. See paragraph (c) (1) of this section for principles applicable under this paragraph in the case of partial acquisitions of stock, and see paragraph (c) (5) of this section for principles applicable under this paragraph in the case of multiple components.

(ii) In applying section 462 (d) (2) (B) in the case of an acquiring corporation entitled, immediately prior to the Part II transaction, to compute its average base period net income under section 442 (d), the exclusion required by section 462 (j) (1) shall apply to the excess profits net income of the component corporation for the period ending on the last day, prior to the acquisition of the stock of the component corporation, for which total assets are determined for the purposes of section 442 (d).

(iii) In applying § 40.462–4 in the case of an acquiring corporation in a Part II transaction occurring during the base period of the acquiring corporation, section 462 (j) (1) requires that the total assets computed under section 442 (d) for any day prior to the acquisition of the component corporation's stock shall be determined after excluding the assets of the component corporation attributable to such stock. A corresponding exclusion shall be made in applying section 442 (d) with respect to interest paid or incurred by the component corporation prior to the last such day. Whether an abnormality occurring prior to the stock acquisition is significant and not trivial shall be determined after applying section 462 (j) (1) to the excess profits net income and the assets of the component corporation.

(iv) Section 40.462–5 (a) (2) and (3), relating to the case of an acquiring corporation in a Part II transaction occurring prior to the time the parties to such transaction were qualified to compute average base period net income under section 443, applies only where the acquisition of the component corporation's stock occurred on or prior to the date for which total assets are determined for the purpose of section 443 and § 40.462–5. Accordingly, in any case under § 40.462–5 (a) (2) and (3) no adjustment is required under section 462 (j) (1) in applying section 443 to the acquiring corporation.

(v) Section 40.462–6 (a) (1) and (2), relating to the case of an acquiring corporation in a Part II transaction occurring prior to the time the parties to such transaction were qualified to compute average base period net income under section 444, applies only where the acquisition of the component corporation's stock occurred on or prior to the date for which total assets are determined for the purpose of section 444 and § 40.462–6. Accordingly, in any case under § 40.462–6 (a) (1) and (2), no adjustment is required under section 462 (j) (1) in applying section 444 to the acquiring corporation.

(vi) In applying § 40.462–7 in the case of an acquiring corporation in a Part II transaction, if the amount of the total assets for the purpose of section 445 is determined under section 445 (b) (2) (A) or (c) (1) for a day prior to the acquisition of the component corporation's stock, section 462 (j) (1) requires the exclusion of so much of the total assets of the component corporation for such day as is attributable to the stock acquired. In computing the interest adjustment under section 445 (b), a corresponding exclusion shall be made with respect to the interest paid or incurred by the component corporation prior to the date of the acquisition of such stock. The net capital addition or reduction of the acquiring corporation determined for the purpose of section 445 (c) shall be adjusted so as to remove any addition or reduction of the component corporation, attributable to the stock acquired, which occurred prior to the acquisition of such stock.

(vii) In applying § 40.462–8 in the case of an acquiring corporation in a Part II transaction occurring during the base period of the acquiring corporation, section 462 (j) (1) requires that the total assets computed under section 446 (b) for any day prior to the acquisition of the component corporation's stock shall be determined after excluding the assets of the component corporation attributable to such stock. A corresponding exclusion shall be made in applying section 446 (b) with respect to interest paid or incurred by the component corporation prior to the last such day.

§ 40.462–11 *Limitation under section 462 (j) (2).* (a) In the case of a Part II transaction occurring in a taxable year of the acquiring corporation ending after June 30, 1950, section 462 (j) (2) imposes a limitation for such taxable year in computing the acquiring corporation's excess profits credit based on income. In computing the acquiring corporation's average base period net income under section 435 (d) or (e) for such taxable year, there is available to the acquiring corporation only a proportionate part of the amount of the monthly excess profits net income (or deficit) of the component corporation which is otherwise available to the acquiring corporation under section 462 (b), (c), or (d). In computing the average base period net income of the acquiring corporation under § 40.462–3 (c) or under § 40.462–7 (a) (2) (i) or (ii) or (b) (2) (i) (which sections relate to certain cases in which the average base period net income of the component corporation, separately computed, is added to that of the acquiring corporation) there is available to the acquiring corporation only a proportionate part of the amount of the average base period net income of the component corporation which is otherwise available to the acquiring corporation under such sections. Such proportionate part shall be determined in each case by the ratio which the number of days in the taxable year of the acquiring corporation after the day of the transaction bears to the total number of days in such taxable year. In the computation of the excess profits credit based on income for subsequent taxable years, the limitations of section 462 (j) (2) are not applicable. Section 462 (j) (2) may be illustrated by the following example:

Example. On October 19, 1951, the X Corporation acquired all of the assets of the Y Corporation in a transaction described in section 461 (a). Both the X Corporation and the Y Corporation commenced business before January 1, 1946, and both corporations make their income tax returns on the calendar year basis. The Y Corporation had an excess profits net income of $10,000 for each month in the calendar year 1946, a deficit in excess profits net income of $500 for each month in the calendar year 1947, an excess profits net income of $3,000 for each month in the calendar year 1948, and an excess profits net income of $7,500 for each month in the calendar year 1949. In computing its average base period net income for 1951 under section 435 (d), based on a recomputation of its excess profits

net income under section 462 (b), the X Corporation shall include only one-fifth (73/365) of the above amounts, i. e., $2,000 for each month in 1946, a deficit of $100 for each month in 1947, $600 for each month in 1948, and $1,500 for each month in 1949. In computing the excess profits credit for 1952, and subsequent years, however, the X Corporation may include the entire amount of the excess profits net income and deficit in excess profits net income of the Y Corporation.

(b) If a corporation becomes an acquiring corporation in a taxable year ending after June 30, 1950, and if the taxpayer's average base period net income for the purpose of the excess profits credit for such taxable year is determined under §§ 40.462–4 through 40.462–8, other than in a case to which paragraph (a) of this section is applicable, the average base period net income of the taxpayer shall be computed by taking into account only a proportionate part of the amount of the total assets of the component corporation otherwise available to the acquiring corporation in such computation. If the total assets are determined for a day prior to the day of the Part II transaction, such proportionate part shall bear the same ratio to the total assets of the component corporation otherwise available to the acquiring corporation as the number of days in the taxable year of the acquiring corporation after the day of the Part II transaction bears to the total number of days in such taxable year. If the total assets are determined for the day of, or for a day subsequent to, the Part II transaction, there shall be excluded from such total assets an amount which is the same portion of the total assets of the component corporation acquired by the acquiring corporation in the Part II transaction as the number of days in the taxable year of the acquiring corporation prior to the day of the Part II transaction is of the total number of days in such taxable year. Appropriate adjustment shall be made in any case subject to the rules of this paragraph in which interest paid or incurred by the component corporation is taken into account in computing the average base period net income of the acquiring corporation. In applying § 40.462–7 (a) (2) (iii) or (b) (2) (ii), appropriate adjustment shall be made in any case in which the net capital addition or reduction of the acquiring corporation is determined for the purpose of section 445 (c) by reference to additions or reductions of the component corporation. In the computation of the excess profits credit based on income for subsequent taxable years, the limitations of section 462 (j) (2) are not applicable.

(c) A similar limitation applies in the case of a component corporation for the purpose of computing its excess profits credit for a taxable year of such component corporation ending after June 30, 1950, in which the Part II transaction occurs. See section 461 (c) (2) and (4). In such case, however, the proportionate part of the amount of the excess profits net income (or deficit) or of the average base period net income, as the case may be, to be taken into account for the purpose of the component corporation's excess profits credit for such taxable year is in the ratio which the number of days in such taxable year of the component corporation before the day after the transaction bears to the total number of days in such taxable year. Thus, in the above example, in computing the excess profits net income, or deficit therein, as the case may be, of the Y Corporation (assuming it continues in existence after the transaction) for the purpose of its excess profits credit for 1951, the amounts to be taken into account will be $8,000 for each month in 1946, a deficit of $400 for each month in 1947, $2,400 for each month in 1948, and $6,000 for each month in 1949. See § 40.461–3.

§ 40.462–12 *Partnerships and sole proprietorships.* In the case of a component corporation which is a partnership or a business owned by a sole proprietorship (see § 40.461–5), the computations required under Part II and under the regulations in this part shall be made as though such partnership or such business owned by a sole proprietorship had been a corporation. See § 40.462–1 (b) (2) for examples of the adjustments required.

§ 40.462–13 *Minimum average base period net income of acquiring corporation under Part II.* Section 462 (1) provides for a minimum average base period net income in certain cases. In cases to which section 462 (1) is applicable, the average base period net income of the acquiring corporation shall not be less than either its average base period net income computed without regard, under Part II, to any of the qualified component corporations, or the average base period net income separately computed for any qualified component corporation. Section 462 (1) is applicable only in the case of a Part II transaction occurring in a taxable year of the acquiring corporation ending after June 30, 1950, and is applicable only if, at the beginning of the first taxable year of the acquiring corporation ending after June 30, 1950, and at all times thereafter until such transaction, either the acquiring corporation owned at least 75 percent of each class of stock of each of the qualified component corporations involved in the transaction, or one of such qualified component corporations owned at least 75 percent of each class of stock of the acquiring corporation and of each of the other qualified component corporations. The term "qualified component corporation", as used in this section, means a component corporation which was actually in existance and had actually commenced business at the beginning of the base period of the acquiring corporation. For the purpose of determining whether a corporation is a qualified component corporation, section 461 (d) does not apply. Section 462 (j) (1) does not require a reduction, by reason of the Part II transaction, of the minimum average base period net income to which the acquiring corporation is entitled under section 462 (1) and this section, but section 462 (j) (2) requires, for the taxable year in which the transaction takes place, a proration of the average base period net income of the qualified component corporation. In case the Part II transaction is a transaction described in section 461 (a) (1) (E), see § 40.461–7 (b).

§ 40.462–14 *Treatment of abnormalities in income in taxable year.* In the case of a Part II transaction occurring on or before December 31, 1950, the activities of the component corporation shall be treated as activities of the acquiring corporation for the purpose of applying section 456 to income, received or accrued by the acquiring corporation after the transaction, which is attributable to such activities for a taxable year of the component corporation which closed prior to or with the close of the base period of the acquiring corporation. In any such case, all income of the component corporation of the same class as the abnormal income received or accrued by the acquiring corporation, which income is income for a taxable year of the component corporation prior to the Part II transaction, shall be treated under section 456 as income of the acquiring corporation.

PAR. 3. There is inserted immediately after section 463, the following:

§ 40.463–1 *Net capital addition or reduction under Part II*—(a) *In general.* If a taxpayer acquires properties of a component corporation in a Part II transaction occurring in a taxable year of the taxpayer ending after June 30, 1950, and if the taxpayer's average base period net income for the purpose of its excess profits credit for any taxable year ending after the transaction is computed by application of Part II, then the net capital addition or net capital reduction of the acquiring corporation after the Part II transaction shall be computed for such taxable year under section 435 (g) with the application of this section. The rules for determining the net capital addition and net capital reduction of the acquiring corporation after the Part II transaction differ, depending upon whether the Part II transaction is of a type described in section 461 (a) (1) (E).

(b) *Part II transactions other than a transaction described in section 461 (a) (1) (E).* If the excess profits credit of an acquiring corporation, other than an acquiring corporation in a Part II transaction described in section 461 (a) (1) (E), is computed by application of Part II, the following rules shall apply in computing the net capital addition and net capital reduction of the acquiring corporation:

(1) For the purpose of section 435 (g) (3) (A), if the transaction occurs after June 30, 1950, in determining the amount of money and property paid in for stock or as paid-in surplus or as a contribution to capital after the beginning of the taxable year of the acquiring corporation in which the transaction occurs, there shall be included, beginning with the day after the transaction, the amounts of money and property paid in for the same purposes to the component corporation prior to the transaction and after the beginning of the taxable year of the component corporation in which such transaction occurred.

(2) For the purpose of section 435 (g) (4), (A), in the case of the taxable year of the acquiring corporation in which the transaction occurs, if the transaction occurs after June 30, 1950, there shall be included, beginning with the day after the transaction, the amount of the distributions not out of earnings and profits of the taxable year, made by the component corporation to its shareholders prior to the transaction and after the beginning of its taxable year in which such transaction occurred.

(3) For the purpose of section 435 (g) (3) (B) and (4) (B), in the case of the taxable year of the acquiring corporation in which the transaction occurs, there shall be added to the acquiring corporation's daily capital addition beginning with the day of the transaction, if the transaction occurs after June 30, 1950, the amount by which the component corporation's equity capital at the beginning of its taxable year in which the transaction occurs exceeds its equity capital as of the beginning of its first taxable year ending after June 30, 1950. In case this comparison of the component corporation's equity capital shows a decrease to have taken place, the amount of that decrease shall be reflected in the computation of the daily capital reduction of the acquiring corporation beginning with the day of the transaction.

(4) For the purpose of section 435 (g) (3) (B) and (4) (B), for taxable years beginning after the transaction, there shall be added to the equity capital of the acquiring corporation at the beginning of the acquiring corporation's first taxable year ending after June 30, 1950—

(i) If the transaction occurs after June 30, 1950, the equity capital of the component corporation as of the beginning of the component corporation's first taxable year ending after June 30, 1950, or

(ii) If the transaction occurred before July 1, 1950, the equity capital of the component corporation determined as of the time immediately prior to the transaction.

(5) For the purpose of section 435 (g), in the case of the taxable year in which the transaction occurs and in the case of subsequent taxable years, there shall be added to the daily borrowed capital of the acquiring corporation for the first day of its first taxable year ending after June 30, 1950, and to its original inadmissible assets—

(i) If the transaction occurs after June 30, 1950, the daily borrowed capital of the component corporation for the first day of its first taxable year ending after June 30, 1950, and the original inadmissible assets of the component corporation, respectively, or

(ii) If the transaction occurred before July 1, 1950, the daily borrowed capital of the component corporation determined as of the time immediately prior to the transaction, and the total of the inadmissible assets held by the component corporation immediately prior to the transaction, respectively.

(6) For the purpose of section 435 (g), in the case of the taxable year of the acquiring corporation in which the transaction occurred, the daily borrowed capital and the inadmissible assets of the acquiring corporation for each day of such taxable year preceding the day after the transaction shall be computed by adding to the daily borrowed capital and the inadmissible assets of the acquiring corporation the amount of the daily borrowed capital and the amount of the inadmissible assets, respectively, of the component corporation which are determined under subparagraph (5) (i) or (ii) of this paragraph, whichever is applicable.

(7) For the purpose of determining the amount referred to in section 435 (g) (4) (D) and (g) (6), for any day after the day of the transaction, the inadmissible assets of the acquiring corporation for the first day of its first taxable year ending after June 30, 1950, shall (for the purpose of section 435 (g) (6) (B)) be determined under subparagraph (5) of this paragraph, and there shall be added (for the purpose of section 435 (g) (6) (A)) to the aggregate of the adjusted basis (for determining gain upon sale or exchange) of stock in members of a controlled group of which the acquiring corporation is a member, held by the acquiring corporation on the first day of its first taxable year ending after June 30, 1950—

(i) If the transaction occurs after June 30, 1950, the aggregate of the adjusted basis (for determining gain upon sale or exchange) of stock in members of a controlled group, of which the component corporation is a member, held by the component corporation on the first day of its first taxable year ending after June 30, 1950, or

(ii) If the transaction occurred before July 1, 1950, the aggregate of the adjusted basis (for determining gain upon sale or exchange) of stock in members of a controlled group, of which the component corporation is a member, held by the component corporation immediately prior to the transaction.

(8) For the purpose of determining the amount referred to in section 435 (g) (7) for any day after the day of the transaction (75 percent of which amount is taken into account under section 435 (g) (4) (E)), there shall be added to the amount of the indebtedness described in section 435 (g) (7) owed to the acquiring corporation for the first day of its first taxable year ending after June 30, 1950—

(i) If the transaction occurs after June 30, 1950, the amount of the indebtedness described in section 435 (g) (7) which was owed to the component corporation for the first day of its first taxable year ending after July 30, 1950, or

(ii) If the transaction occurred before July 1, 1950, the amount of the indebtedness described in section 435 (g) (7) which was owed to the component corporation immediately prior to the transaction.

(c) *Intercompany stockholdings, etc.* The computation of the net capital addition or reduction under section 435 (g) is subject to the following additional rules relating to cases involving intercorporate stock ownership, and contributions, distributions, stock purchases, and loans between parties to a Part II transaction or their shareholders:

(1) In computing the daily capital addition of the acquiring corporation under section 435 (g) (3) (A) for any day after the day of the Part II transaction, there shall be disregarded any amount paid in to one corporation, a party to the Part II transaction, which consisted of stock in another corporation a party to the Part II transaction, and there shall be disregarded any amount paid in by one such corporation to another such corporation.

(2) In computing the daily capital reduction of the acquiring corporation under section 435 (g) (4) (A) for any day after the day of the Part II transaction, there shall be disregarded any distribution made by one corporation, a party to the Part II transaction, which consisted of stock in another corporation a party to the Part II transaction, and there shall be disregarded any distribution made by one such corporation to another such corporation.

(3) In computing the daily capital addition of the acquiring corporation under section 435 (g) (3) (B), or the daily capital reduction of the acquiring corporation under section 435 (g) (4) (B), for any day after the day of the transaction, the equity capital of the acquiring corporation at the beginning of the taxable year and its equity capital at the beginning of its first taxable year ending after June 30, 1950, shall each be determined after excluding all stock of the component corporation held by the acquiring corporation at the beginning of each such year. In determining the amount with respect to the component corporation to be added under paragraph (b) (3) and (4) of this section, for the purpose of computing the acquiring corporation's daily capital addition or reduction, the equity capital of the component corporation as of any time for which equity capital is computed under paragraph (b) (3) or (4) of this section, shall be determined after excluding all stock of the acquiring corporation, or of any other corporation a party to the Part II transaction, held by the component corporation as of such time.

(4) For the purpose of the computations under section 435 (g) (3) (C) and (g) (4) (C)—

(i) In determining the amount with respect to the component corporation to be added to the daily borrowed capital of the acquiring corporation under paragraph (b) (5) or (6) of this section, the daily borrowed capital of the component corporation, computed as of any time for which such daily borrowed capital is computed under paragraph (b) (5) or (6) of this section, shall be determined as if any indebtedness owed at such time by the component corporation to the acquiring corporation or to any other corporation which is a party to the Part II transaction were not borrowed capital within the meaning of section 439.

(ii) In the case of the taxable year in which the Part II transaction occurs—

(*a*) The daily capital addition of the acquiring corporation under section 435 (g) (3) (C) for any day in such taxable year shall be 75 percent of the amount, if any, by which the daily borrowed capital of the acquiring corporation for such day exceeds its daily bor-

rowed capital for the first day of its first taxable year ending after June 30, 1950, and

(*b*) The daily capital reduction of the acquiring corporation under section 435 (g) (4) (C) for any day in such taxable year shall be 75 percent of the amount, if any, by which the daily borrowed capital for the first day of the acquiring corporation's first taxable year ending after June 30, 1950, exceeds its daily borrowed capital for such day.

For the purpose of such computation in the case of any day after the day of the Part II transaction, the daily borrowed capital of the acquiring corporation for the first day of its first taxable year ending after June 30, 1950, shall be determined as if any indebtedness for such day of the acquiring corporation to any corporation which is a party to the Part II transaction were not borrowed capital within the meaning of section 439.

(iii) In the case of any taxable year subsequent to the taxable year in which the Part II transaction occurs, in computing the daily capital addition of the acquiring corporation under section 435 (g) (3) (C) or the daily capital reduction of the acquiring corporation under section 435 (g) (4) (C), the daily borrowed capital of the acquiring corporation for the first day of its first taxable year ending after June 30, 1950, shall be determined as if any indebtedness for such day of the acquiring corporation to any corporation which is a party to the Part II transaction were not borrowed capital within the meaning of section 439.

(5) In computing the daily capital reduction of the acquiring corporation under section 435 (g) (4) (D) for any day after the day of the Part II transaction, the stock of any corporation which is a party to the Part II transaction, held by the acquiring corporation on the first day of its first taxable year ending after June 30, 1950, shall not be considered stock referred to in section 435 (g) (6) (A), and shall not be considered an inadmissible asset for the purpose of the computation under section 435 (g) (6) (B). In determining the amount with respect to the component corporation to be added under paragraph (b) (7) of this section, for the purpose of computing the acquiring corporation's daily capital addition or reduction, the stock held by the component corporation in the acquiring corporation or in any other corporation which is a party to the Part II transaction shall be disregarded in making the computations under paragraph (b) (7) of this section.

(6) In computing the daily capital reduction of the acquiring corporation under section 435 (g) (4) (E) for any day after the day of the transaction, loans by the acquiring corporation to another corporation, a party to the Part II transaction, shall not be considered indebtedness described in section 435 (g) (7) for the first day of the first taxable year ending after June 30, 1950. In determining the amount with respect to the component corporation to be added under paragraph (b) (8) of this section, for the purpose of computing the acquiring corporation's daily capital reduction, loans by the component corporation to the acquiring corporation or to any other corporation which is a party to the Part II transaction shall not be considered indebtedness described in section 435 (g) (7).

(7) In computing the increase or decrease in inadmissible assets for the purpose of section 435 (g) (1) and (2)—

(i) In the case of any taxable year of the acquiring corporation subsequent to the taxable year in which the transaction occurs, the original inadmissible assets of the acquiring corporation and the amount added thereto under paragraph (b) (5) of this section, shall each be computed without regard to any stock held by the acquiring corporation in the component corporation or in any other corporation a party to the Part II transaction, and without regard to any stock held by the component corporation in the acquiring corporation or in any other corporation a party to the Part II transaction;

(ii) In the case of the taxable year of the acquiring corporation in which the transaction occurs—

(*a*) The increase in inadmissible assets for such taxable year shall be the excess, divided by the number of days in the taxable year, of the aggregate of the daily increases in inadmissible assets over the aggregate of the daily decreases in inadmissible assets, and

(*b*) The decrease in inadmissible assets for such taxable year shall be the excess, divided by the number of days in the taxable year, of the aggregate of the daily decreases in inadmissible assets over the aggregate of the daily increases in inadmissible assets.

The daily increase in inadmissible assets shall be computed for each day of the taxable year, and shall be the excess of the daily amount attributable to the inadmissible assets for such day over the amount of the original inadmissible assets. The daily decrease in inadmissible assets shall be computed for each day of the taxable year, and shall be the excess of the original inadmissible assets over the daily amount attributable to the inadmissible assets for such day. For the purpose of the computation of the daily increase or daily decrease in inadmissible assets for any day of the taxable year, the daily amount attributable to inadmissible assets for any day prior to the day after the transaction shall be computed with the application of paragraph (b) (6) of this section, and the original inadmissible assets shall be computed with the application of paragraph (b) (5) of this section. For the purpose of the computation of the daily increase or daily decrease in inadmissible assets for any day after the day of the transaction, the original inadmissible assets shall be computed under the rule provided in subdivision (i) of this subparagraph (relating to taxable years subsequent to the taxable year of the transaction).

(8) There shall be excluded from the daily capital addition of the acquiring corporation for any day after the day of the Part II transaction so much of the increase in equity capital and of the increase in borrowed capital for such day as is attributable to assets obtained for the purpose of acquiring stock in the component corporation in a transaction described in § 40.462–10 (a) (2), that is, in a transaction not covered by section 462 (j) (1).

(9) To the extent that stock of a component corporation was acquired in an exchange for other than stock of the acquiring corporation, within the meaning of section 462 (j) (1) (see § 40.462–10), the basis of the assets of the component corporation shall be redetermined as provided in section 470, whether or not more than 80 percent of the stock of the component corporation is acquired, and such redetermined basis shall be used where appropriate for all computations under section 435 (g), section 463, and this section. See the example in paragraph (e) of this section.

(d) *Special rules under sections 443 and 445*—(1) *Rules under section 443.* If the average base period net income is determined under section 443, section 443 (d) provides that no net capital addition or reduction shall be allowed in computing the excess profits credit for the qualifying taxable year. If the qualifying taxable year ends after June 30, 1950, section 443 (d) provides that the net capital addition or reduction for subsequent taxable years shall be determined by reference to the first day of the first taxable year following the qualifying taxable year rather than by reference to the first day of the first taxable year ending after June 30, 1950. These rules of section 443 (d) apply in computing the net capital addition or reduction of the acquiring corporation if its average base period net income is computed under section 443. If such average base period net income is computed under § 40.462–3 (c) (relating to cases in which the Part II transaction occurs after all parties to the transaction are entitled to an alternative average base period net income), the special rules of section 443 (d) shall be applicable only with respect to the items of capital addition and reduction of each corporation entitled to apply section 443.

(2) *Rules under section 445.* If the average base period net income is determined under section 445, then section 445 (e) provides that no net capital addition or reduction shall be allowed in computing the excess profits credit for the first three taxable years of the taxpayer. Such net capital addition or reduction is, however, taken into account in computing total assets for the purpose of section 445 (c). If the third taxable year ends after June 30, 1950, section 445 (e) provides that the net capital addition or reduction for subsequent taxable years shall be determined by reference to the first day of the fourth taxable year of the taxpayer instead of by reference to the first day of its first taxable year ending after June 30, 1950. These rules of section 445 (e) apply in computing the net capital addition or reduction of the acquiring corporation if its average base period net income is computed under section 445. See § 40.462–7 (a) (2) (ii) for certain cases in which the day before the Part II transaction is treated as though it were the first day of the fourth taxable year. If such average base period

net income is computed under § 40.462–3 (c) (relating to cases in which the Part II transaction occurs after all parties thereto are entitled to an alternative average base period net income), the special rules of section 445 (e) shall be applicable only with respect to the items of capital addition and reduction of each corporation entitled to apply section 445.

(e) *Limitations under section 462 (j) (1).* In order to prevent duplication under section 463 in computing the net capital addition or reduction of the acquiring corporation in the case of a Part II transaction following a stock acquisition covered by section 462 (j) (1), which stock acquisition occurred after the beginning of the first taxable year of the component corporation ending after June 30, 1950, section 462 (j) (1) requires that each item with respect to the component corporation determined under paragraphs (b) and (c) of this section, shall be properly adjusted to eliminate the portion of the transferred items of capital addition and reduction of the component corporation attributable to the stock acquired.

Example (1). If the A Corporation (the acquiring corporation) and the C Corporation (the component corporation) each makes its income tax returns on the calendar year basis, if the A Corporation purchases 30 percent of the stock of the C Corporation on April 1, 1951, and if the Part II transaction takes place on September 1, 1951, then any items arising before April 1, 1951, described in paragraph (b) (1) of this section (that is, money or property paid in for stock, etc., to the C Corporation during the taxable year and before April 1, 1951), or paragraph (b) (2) of this section (that is, distributions not out of earnings and profits of the taxable year, made by the C Corporation during the taxable year and before April 1, 1951), shall be available to the A Corporation under paragraph (b) (1) and (2) of this section only to the extent of 70 percent thereof, that is, the 30 percent of each such item attributable to the stock purchased after such items arose shall be eliminated. Similarly, 30 percent of the amount determined under paragraph (b) (3) of this section (the excess of equity capital of the C Corporation on January 1, 1951, over its equity capital on January 1, 1950), shall not be available to the A Corporation. Each of the items under paragraph (b) (4), (5), (6), (7), and (8) of this section (relating to equity capital, daily borrowed capital, inadmissible assets, controlled group stock, and controlled group indebtedness, as of January 1, 1950) shall be available to the acquiring corporation in an amount equal to 70 percent of such item, that is, 30 percent of each such item shall be eliminated.

Example (2). The facts in this example are the same as in example (1), except that the stock acquisition occurred on April 1, 1950, instead of on April 1, 1951. In this case, no adjustment is required with respect to the items under paragraph (b) (1) and (2) of this section since such items arose in a taxable year subsequent to the taxable year of the acquisition. Each of the items under paragraphs (b) (4), (5), (6), (7), and (8) of this section (relating to equity capital, daily borrowed capital, inadmissible assets, controlled group stock, and controlled group indebtedness, as of January 1, 1950) are adjusted in the same manner as in example (1), that is, 30 percent of each such item is eliminated. However, in this case, the amount available to the A Corporation for its taxable year 1951 under paragraph (b) (3) of this section (that is, the capital addition or reduction based on the difference between the equity capital of the C Corporation on January 1, 1951, and its equity capital on January 1, 1950) is determined by using, in lieu of the equity capital of the C Corporation on January 1, 1950, an amount equal to the sum of 70 percent of its equity capital on January 1, 1950, plus so much of its equity capital on April 1, 1950, computed for this purpose after the redetermination of the basis of the assets of the C Corporation under the principles of section 470, as is attributable to the stock acquired on April 1, 1950, by the A Corporation. Similarly, for this purpose, the equity capital of the C Corporation on January 1, 1951, would be determined under the principles of section 470. See Paragraph (c) (9) of this section and section 463 (a) (12).

(f) *Part II transactions described in section 461 (a) (1) (E).*—(1) *In general.* In the case of a Part II transaction described in section 461 (a) (1) (E), the net capital addition or reduction of the acquiring corporation is computed in the same manner as in the case of other Part II transactions, except that there is available to the acquiring corporation only such portion of the transferred items of capital addition and reduction of the component corporation as is allocable to the properties transferred. The following rules are applicable in the case of a Part II transaction described in section 461 (a) (1) (E):

(i) The items described in paragraph (b) (1), (2), and (3) of this section, relating to property paid in for stock, etc., distributions not out of earnings and profits, and increase in equity capital, are not available to the acquiring corporation. The capital changes reflected in such items are, instead, reflected under the rule set forth in subdivision (ii) of this subparagraph.

(ii) There shall be available to the acquiring corporation, in lieu of the amount determined under paragraph (b) (4) of this section (relating to the equity capital of the component corporation for the first day of its first taxable year ending after June 30, 1950), an amount which is such portion of the amount determined under paragraph (b) (4) of this section as the equity capital transferred to the acquiring corporation in the Part II transaction is of the equity capital of the component corporation immediately prior to the transaction. For the purpose of section 435 (g) (3) (B) and (g) (4) (B), the equity capital of the acquiring corporation for the first day, of the taxable year in which the transaction occurs (which equity capital is compared with the equity capital of the acquiring corporation, determined with the application of the preceding sentence, for the first day of its first taxable year ending after June 30, 1950) shall be determined as of the day following the transaction in lieu of the first day of such taxable year.

(iii) There shall be available to the acquiring corporation, in lieu of each of the items determined under paragraph (b) (5), (6), (7), and (8), of this section, an amount with respect to each such item which is such portion of that item as the amount of such item transferred to the acquiring corporation in the transaction bears to the amount of such item determined immediately prior to the transaction.

(2) *Special rules.* See § 40.461–7 (b) for special rules applicable in the case of a Part II transaction described in section 461 (a) (1) (E) which involves a transfer to an acquiring corporation by two or more component corporations, or which involves a transfer to an acquiring corporation not created incident to the transaction.

§ 40.463–2 *Capital changes in case of successive Part II transactions.* If one corporation becomes a component of a second corporation in a taxable year ending after June 30, 1950, and if the second corporation thereafter becomes a component of a third corporation, the net capital addition or reduction of the third corporation shall be determined under § 40.463–1 by computing the items of transferred capital addition and reduction of the second corporation after such items have been adjusted under the provisions of § 40.463–1 by reference to the first corporation. Such adjustment shall be made whether or not the second corporation computed its average base period net income by application of Part II. The first corporation shall be treated as a party to the later Part II transaction for the purpose of the application under this section of § 40.463–1 (c) relating to intercompany stockholdings, etc.

PAR. 4. There is inserted immediately after section 464, the following:

§ 40.464–1 *Base period capital additions under Part II*—(a) *In general.* If a taxpayer acquires properties of a component corporation in a Part II transaction occurring during or after the beginning of the second taxable year preceding the first taxable year of the taxpayer ending after June 30, 1950, and if the taxpayer's average base period net income for the purpose of its excess profits credit for any taxable year ending after the transaction is computed by application of Part II, then the base period capital addition of the acquiring corporation shall be computed for such taxable year under section 435 (f) with the application of this section. The base period capital addition shall be allowed to an acquiring corporation computing its average base period net income with respect to Part II only if such acquiring corporation computes its average base period net income under the general average method provided in section 435 (d) with reference to section 462 (b) or, in certain instances, under section 442 (c) with reference to section 462 (d). See section 435 (f) (3). If the Part II transaction occurs prior to the beginning of the second taxable year preceding the first taxable year of the acquiring corporation ending after June 30, 1950, no base period capital addition of the component corporation is available to the acquiring corporation. See examples in § 40.461–3 (d) and (e). The rules for determining the base period capital addition of the acquiring corporation after the Part II transaction differ, depending upon whether the Part II transaction is of a type described in section 461 (a) (1) (E), and depending upon the taxable year in which the transaction occurs.

(b) *Part II transactions other than a transaction described in section 461 (a) (1) (E).* (1) In the case of a Part II transaction other than a transaction described in section 461 (a) (1) (E), which occurs during or after the first taxable year of the acquiring corporation ending after June 30, 1950, for the purpose of section 435 (f) and § 40.435–6, the base period capital addition of the acquiring corporation for the taxable year in which the transaction occurs shall be the sum of (i) the base period capital addition of the acquiring corporation, and (ii) an amount which bears the same ratio to the base period capital addition of the component corporation as the number of days in the taxable year of the acquiring corporation after the transaction bears to the total number of days in such taxable year in which the transaction occurs. The base period capital addition of the acquiring corporation for any taxable year thereafter shall be the aggregate of the base period capital addition of the acquiring corporation and the base period capital addition of the component corporation.

(2) In the case of a Part II transaction other than a transaction described in section 461 (a) (1) (E), which occurred during the first taxable year of the acquiring corporation immediately preceding its first taxable year ending after June 30, 1950, the base period capital addition of the acquiring corporation shall be computed after (i) adding to the yearly base period capital of the acquiring corporation for its taxable year immediately preceding its first taxable year ending after June 30, 1950, the yearly base period capital of the component corporation for its taxable year immediately preceding its first taxable year ending after June 30, 1950, and (ii) adding to the yearly base period capital of the acquiring corporation for its second taxable year preceding its first taxable year ending after June 30, 1950, the yearly base period capital of the component corporation for its second taxable year preceding its first taxable year ending after June 30, 1950.

(3) In the case of a Part II transaction other than a transaction described in section 461 (a) (1) (E), which occurred during the second taxable year of the acquiring corporation preceding its first taxable year ending after June 30, 1950, its base period capital addition shall be computed after adding to its yearly base period capital for such second preceding taxable year, the yearly base period capital of the component corporation for the second taxable year preceding the component corporation's first taxable year ending after June 30, 1950.

(4) If the Part II transaction occurred prior to July 1, 1950, it is necessary to determine constructive taxable years ending after the transaction in order to make the comparisons required with respect to the component corporation. In any such case, the component corporation shall be deemed to have as many taxable years ending after the transaction as are necessary for it to have a first taxable year ending after June 30, 1950, which taxable years shall be determined on the basis of the annual accounting period applicable to the component corporation immediately prior to the transaction. Wherever it is necessary under section 464 to determine a yearly base period capital for any such constructive taxable year beginning after the Part II transaction, such yearly base period capital shall be deemed to be an amount equal to the yearly base period capital of the component corporation determined as of the day of the transaction in the same manner as if such day were the first day of a taxable year.

Example. The A Corporation, which makes its income tax returns on the calendar year basis, acquires the C Corporation on April 1, 1950, in a Part II transaction. The C Corporation, prior to such transaction, made its income tax returns on the basis of a fiscal year ending June 30. For the purpose of determining the base period capital addition of the C Corporation, all or part of which will be added under subparagraph (1) of this paragraph, to the base period capital addition of the A Corporation, the taxable year of the C Corporation beginning July 1, 1949, in which year the Part II transaction takes place, will be deemed to end June 30, 1950, and the C Corporation will be deemed to have another taxable year beginning July 1, 1950, and ending June 30, 1951, which taxable year will be deemed to be its first taxable year ending after June 30, 1950. The yearly base period capital for the constructive taxable year beginning July 1, 1950, and ending June 30, 1951, will be deemed to be an amount equal to the yearly base period capital of the C Corporation determined as of April 1, 1950, the day of the transaction. This yearly base period capital will be compared under section 435 (f) (2) with the yearly base period capital of the C Corporation for the fiscal year beginning July 1, 1949 (which year is deemed to end June 30, 1950), that is, with the amount determined as of July 1, 1949, and with the yearly base period capital for the fiscal year beginning July 1, 1948, and ending June 30, 1949, that is, with the amount determined as of July 1, 1948.

(c) *Intercompany stockholdings, etc.* (1) In computing under section 464 the yearly base period capital of either the acquiring corporation or the component corporation for any taxable year, the equity capital and inadmissible assets of such corporation shall be determined after excluding all of the stock of the other such corporation, and of any other corporation a party to the Part II transaction, held by such corporation on the day for which equity capital and inadmissible assets are determined. In determining daily borrowed capital, and the interest adjustment under section 435 (f) (5), for the purpose of computing yearly base period capital in the case of either the acquiring or the component corporation, any indebtedness of one such corporation to the other such corporation, or to any other corporation a party to the Part II transaction, shall not be considered borrowed capital. Similarly, in computing the amount of loans to members of a controlled group for the purpose of determining the yearly base period capital, any indebtedness to one such corporation owed by the other corporation, or by any other corporation a party to the Part II transaction, shall be excluded.

(2) There shall be excluded from the base period capital addition of the acquiring corporation for any taxable year ending after the day of the Part II transaction so much of the base period capital addition for such taxable year as is attributable to assets obtained for the purpose of acquiring stock in the component corporation in a transaction described in § 40.462–10 (a) (2), that is, in a transaction not covered by section 462 (j) (1).

(3) There shall be excluded from the base period capital addition of the acquiring corporation for any taxable year ending after the Part II transaction so much of the base period capital addition for such taxable year as is attributable to assets obtained by the component corporation (whether as equity or borrowed capital) from the acquiring corporation, or from any other corporation a party to the Part II transaction, after the beginning of the second taxable year of the component corporation preceding its first taxable year ending after June 30, 1950.

(4) To the extent that stock of a component corporation was acquired in an exchange for other than stock of the acquiring corporation within the meaning of section 462 (j) (1) (see § 40.462–10), the basis of the assets of the component corporation shall be redetermined as provided in section 470, whether or not more than 80 percent of the stock of the component corporation is acquired, and such redetermined basis shall be used where appropriate for all computations under section 435 (f), section 464, and this section.

(d) *Limitations under section 462 (j) (1).* In order to prevent duplication under section 464 in computing the base period capital addition in the case of a Part II transaction following a stock acquisition covered by section 462 (j) (1), which stock acquisition occurred after the beginning of the second taxable year of the acquiring corporation preceding its first taxable year ending after June 30, 1950, section 462 (j) (1) requires that in any case in which the yearly base period capital of the component corporation is determined as of the day of such stock acquisition or a preceding day, such yearly base period capital shall be reduced to an amount which is such portion thereof as the stock acquired by the acquiring corporation on or after such day is of the total stock of the component corporation at the time of such acquisition.

Example (1). The A Corporation (the acquiring corporation) and the C Corporation (the component corporation) each makes its income tax returns on the calendar year basis. The A Corporation purchases 30 percent of the stock of the C Corporation on April 1, 1951, and acquires all of the properties of the C Corporation in a Part II transaction on September 1, 1951. In computing the base period capital addition of the C Corporation, which is added to the base period capital addition of the A Corporation under the rules of paragraph (b) (1) of this section, only 70 percent of the yearly base period capital of the C Corporation for 1948, for 1949, and for 1950 shall be taken into account, that is, there shall be eliminated the 30 percent of each such yearly base period capital attributable to the stock purchased after the day (January 1 of each such year) for which yearly base period capital is determined.

Example (2). The facts in this example are the same as in example (1), except that the stock acquisition occurred on April 1, 1949, instead of on April 1, 1951. In this case, no adjustment is required with respect to the yearly base period capital for 1950 since that amount is determined as of January 1, 1950, a day subsequent to the day of the stock acquisition. The same adjustment is required with respect to the yearly base period capital for 1948 and 1949 as that required in example (1), since both such amounts are determined as of a day preceding the day of the stock acquisition.

Example (3). The facts in this case are the same as in example (1), except that the stock acquisition occurred on April 1, 1949, and the Part II transaction occurred on September 1, 1949. In determining the yearly base period capital of the C Corporation for 1948 and 1949, which amounts will be added to the yearly base period capital of the A Corporation for 1948 and 1949, respectively, only 70 percent of each such amount with respect to the component corporation shall be available to the acquiring corporation, that is, 30 percent of each such amount shall be eliminated.

(e) *Part II transactions described in section 461 (a) (1) (E).* (1) In the case of a transaction described in section 461 (a) (1) (E) which occurs during or after the first taxable year of the component corporation ending after June 30, 1950, for the purpose of section 435 (f), the base period capital addition of an acquiring corporation shall be an amount which bears the same ratio to the base period capital addition of the component corporation as the fair market value of the assets transferred to such acquiring corporation in the transaction bears to the fair market value of the assets of the component corporation immediately prior to the transaction.

(2) In the case of a transaction described in section 461 (a) (1) (E) which occurred during a taxable year of the component corporation which is a taxable year preceding its first taxable year ending after June 30, 1950, the yearly base period capital of the acquiring corporation for the year in which the transaction occurred shall be computed as of the day following the transaction.

(3) In case the transaction described in subparagraph (2) of this paragraph occurred in a taxable year of an acquiring corporation which is its first taxable year ending after June 30, 1950, such acquiring corporation's base period capital addition shall be computed as follows:

(i) The acquiring corporation's yearly base period capital for its first taxable year immediately preceding its first taxable year ending after June 30, 1950, shall consist of a portion of the yearly base period capital of the component corporation for the first day of the taxable year of the component corporation in which such transaction occurred, and

(ii) The acquiring corporation's yearly base period capital for its second taxable year preceding its first taxable year ending after June 30, 1950, shall consist of a portion of the yearly base period capital of the component corporation for the first day of its first taxable year immediately preceding its taxable year in which the transaction occurred;

Such portion in each instance being determined by the ratio which the fair market value of the assets transferred to the acquiring corporation in the transaction bears to the fair market value of the assets of the component corporation immediately prior to the transaction.

(4) In case the transaction described in subparagraph (2) of this paragraph occurred during the taxable year of an acquiring corporation immediately preceding its first taxable year ending after June 30, 1950, then, for the purpose of computing the base period capital addition of such acquiring corporation, its yearly base period capital for its second taxable year preceding its first taxable year ending after June 30, 1950, shall consist of a portion of the yearly base period capital of the component corporation for the first day of the taxable year of the component corporation in which such transaction occurred. Such portion shall be determined by the ratio which the fair market value of the assets transferred to the acquiring corporation in the transaction bears to the fair market value of the assets of the component corporation immediately prior to the transaction.

(5) See § 40.461–7 (b) for special rules applicable in the case of a Part II transaction described in section 461 (a) (1) (E) which involves a transfer to an acquiring corporation by two or more component corporations, or which involves a transfer to an acquiring corporation not created incident to the transaction.

§ 40.464–2 *Base period capital addition in case of successive Part II transactions.* If one corporation becomes a component of a second corporation, and if the second corporation thereafter becomes a component of a third corporation, the base period capital addition of the third corporation shall be determined under § 40.464–1 by computing the second corporation's yearly base period capital and its base period capital addition (whichever is available to the third corporation) after such items have been adjusted under the provisions of § 40.464–1 by reference to the first corporation. Such adjustment shall be made whether or not the second corporation computed its average base period net income by application of Part II. The first corporation shall be treated as a party to the later Part II transaction for the purpose of the application under this section of § 40.464–1 (c) relating to intercompany stockholdings, etc.

(53 Stat. 32; 26 U. S. C. 62)

[F. R. Doc. 51–9833; Filed, Aug. 15, 1951; 11:17 a. m.]

United States Coast Guard

[46 CFR Parts 32, 38, 39, 46, 50–57, 59, 60, 76, 94, 113, 117, 146, 160, 162]

[CGFR 51–35]

Vessel Inspection Regulations

Merchant Marine Council Public Hearing on Proposed Changes

1. The Merchant Marine Council will hold a public hearing on September 18, 1951, commencing at 9:30 a. m., in Room 4120, Coast Guard Headquarters, 13th and E Streets NW., Washington, D. C., for the purpose of receiving comments on the proposed changes in the vessel inspection regulations.

2. The proposed changes in the regulations, together with the statutory authorities for making such changes, are generally described by subjects in paragraphs 4 to 37, inclusive. Copies of the proposed changes in the regulations will be mailed to persons and organizations who have expressed an active interest in the subjects under discussion. Copies of any of the proposed regulations may be obtained upon request from the Commandant (CMC), Coast Guard Headquarters, Washington 25, D. C., so long as they are available. After all extra copies available for distribution are exhausted, copies will be available for reading purposes only in Room 4104, Coast Guard Headquarters, or at the offices of the various Coast Guard District Commanders.

3. Comments on the proposed regulations are invited. All persons who desire to submit written comments, data, and views, prior to the hearing for consideration in connection with the proposed changes may submit them in writing for receipt prior to September 17, 1951, by the Commandant (CMC), Coast Guard Headquarters, Washington 25, D. C., or comments, data, and views may be presented orally or in writing at the hearing. In order to insure consideration of comments and to facilitate checking and recording, it is essential that each comment regarding a proposed section of regulations shall be submitted on a separate sheet of paper showing the specific item and page number of the agenda, section number, the proposed change, the reason or basis (if any), and the name, business firm or organization (if any), and the address of the submitter. Comments, data, and views may also be presented orally or in writing at the public hearing in the same manner as for submission of written comments. At the public hearing, the proposed revisions and amendments to the regulations will be considered in the order of the item numbers assigned to the various subjects under consideration.

Item I—General Provisions—Marine Engineering Regulation (12/51)

4. It is proposed to revise the Marine Engineering Regulations and Material Specifications (CG 115) to permit the use of liberalized design stresses based upon a factor of safety of 4 under certain restricted requirements which must be met in order to use the higher stresses allowed; to utilize common practices and procedures employed in the industry insofar as possible; to clarify existing requirements; to effect necessary editorial changes; and to bring the requirements into closer agreement with the rules of the American Bureau of Shipping, standards of the American Society for Testing Materials, and codes of the American Society of Mechanical Engineers; as well as to incorporate proposed changes based on petitions received from industry. These proposed changes are

given in detail in Items I to VIII, inclusive, in the Agenda.

5. It is proposed to amend 46 CFR 50.05 (c), regarding application of Marine Engineering Regulations and Material Specifications, in order that the application of the requirements proposed in Items II to VIII, inclusive, will be clarified in regard to existing installations. Under certain conditions the application of the proposed requirements may be retroactive in effect.

6. The authority for regulations on marine engineering is in R. S. 4405, 4417a, 4418, 4426, and 4429–4434, as amended, 49 Stat. 1544, 54 Stat. 346, 1026, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 375, 391a, 392, 404, 407–412, 367, 1333, 463a, 50 U. S. C. App. 1275.

ITEM II—MATERIALS—MARINE ENGINEERING REGULATIONS (12/51)

7. It is proposed to revise 46 CFR Part 51 in its entirety so that the material requirements in the Marine Engineering Regulations and Material Specifications (CG 115) will utilize insofar as possible the practices and procedures used by industry. Instead of publishing detailed specification requirements for materials, together with note references to the applicable American Society for Testing Materials specifications or other specifications, it is proposed to adopt by reference the A. S. T. M. specifications covering various materials used in marine service and where necessary publish as regulations only those specific limitations applicable to certain materials. It is felt that listing materials acceptable for marine service by reference to A. S. T. M. specifications and specifically stated in the regulations only the limitations applicable to certain materials when used in marine service, it will be easier for the public to determine whether or not materials purchased from steel manufacturers actually will meet Coast Guard requirements. It is also proposed to revise the material requirements for flange and firebox quality steel plate in order that the maximum temperature permitted may be increased from 500° to 650° F. to be consistent with the limitations imposed on this material when used as flange material in piping systems.

8. The authority for regulations on marine engineering is in R. S. 4405, 4417a, 4418, 4426, and 4429–4434, as amended, 49 Stat. 1544, 54 Stat. 346, 1026, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 375, 391a, 392, 404, 407–412, 367, 1333, 463a, 50 U. S. C. App. 1275.

ITEM III—CONSTRUCTION—MARINE ENGINEERING REGULATIONS (12/51)

9. It is proposed to revise 46 CFR Part 52 in its entirety with regard to construction requirements in the Marine Engineering Regulations and Material Specifications (CG 115). The changes proposed will bring the regulations up to date with modern usages and practices used in industry; change certain definitions and general requirements by incorporating the American Society of Mechanical Engineers stresses in the design formulas governing shells and heads of boilers and unfired pressure vessels; provide stress tables for ferrous materials; prescribe definite limitations for the design of boilers and unfired pressure vessels employing stress based upon a factor of safety of 4, such as corrosion allowance, removal of welding reinforcement and consideration of additional stresses imposed by effects other than internal pressure; establish new tables for allowable welded joint efficiencies, which permit increased basic efficiencies for classes I, II, and III welding by the removal of weld reinforcement and by the use of spot radiography and stress relief; revise present requirements covering design formulas for cylindrical shells and dished heads of boilers and unfired pressure vessels, welding requirements covering furnaces, fireboxes, and waterlegs on fire tube boilers, and formulas for determining the allowable pressure and minimum thickness of boiler tubes so that these requirements will be in closer agreement with the A. S. M. E. boiler code (as petitioned by manufacturers); add new requirements covering automatically controlled packaged boilers, access and inspection openings in boilers or pressure parts thereof; and provide a method for determination of ligament efficiency in tube sheets with unsymmetrically spaced holes.

10. The authority for regulations on marine engineering is in R. S. 4405, 4417a, 4418, 4426, and 4429–4434, as amended, 49 Stat. 1544, 54 Stat. 346, 1026, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 375, 391a, 392, 404, 407–412, 367, 1333, 463a, 50 U. S. C. App. 1275.

ITEM IV—LOW PRESSURE HEATING BOILERS—MARINE ENGINEERING REGULATIONS (12/51)

11. It is proposed to revise 46 CFR Part 53 in its entirety so that the requirements for low pressure heating boilers in the Marine Engineering Regulations and Material Specifications (CG 115) will be similar to the current requirements of the American Society of Mechanical Engineers heating boiler code insofar as possible. The factor of safety of 5 has been retained for the design of heating boilers. The requirements prescribing the capacity and testing of safety and relief valves on low pressure heating boilers have been revised. New requirements are proposed for preliminary tests for safety and relief valves having nonmetallic disks as well as for automatically controlled packaged type heating boilers.

12. The authority for regulations on marine engineering is in R. S. 4405, 4417a, 4418, 4426, and 4429–4434, as amended, 49 Stat. 1544, 54 Stat. 346, 1026, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 375, 391a, 392, 404, 407–412, 367, 1333, 463a, 50 U. S. C. App. 1275.

ITEM V—UNFIRED PRESSURE VESSELS—MARINE ENGINEERING REGULATIONS (12/51)

13. It is proposed to revise 46 CFR Part 54 in its entirety with regard to the requirements covering unfired pressure vessels in the Marine Engineering Regulations and Material Specifications (CG 115). This proposal will establish a more uniform set of regulations for the design and construction of unfired pressure vessels. The requirements covering stress relieving of unfired pressure vessels constructed of A204 and A212 steel plate have been revised to agree with the A. S. M. E. unfired pressure vessel code. A table for stresses for nonferrous materials and cast iron, design formulas for tube sheets and tubes of heat exchangers and cast iron heads; requirements regarding access and inspection openings to provide for suitable inspection and cleaning of unfired pressure vessels, as well as revised requirements for nozzle openings and reinforcements; and requirements covering pressure relief devices on unfired pressure vessels, including the requirements for the flow testing of safety relief valves for liquefied compressed gases, have been proposed. New formulas have been incorporated in the proposed requirements to permit calculation of the theoretical flow of the gas used in the flow tests where coefficients of discharge are to be determined for safety relief valves. The physical properties of the more common gases have been tabulated at standard conditions of 60° F. atmospheric pressure.

14. If the proposals regarding requirements for unfired pressure vessels for liquefied compressed gases are adopted, similar requirements presently published in 46 CFR Parts 38 and 39, regarding liquefied petroleum gases and inflammable or combustible liquids having lethal characteristics in the Tank Vessel Regulations (CG 123), and 46 CFR 146.24–1 to 146.24–100, regarding detailed regulations governing compressed gases in the Explosives or Other Dangerous Articles on Board Vessels (CG 187), will be transferred to 46 CFR Part 54 of the Marine Engineering Regulations.

15. The authority for regulations on marine engineering is in R. S. 4405, 4417a, 4418, 4426, and 4429–4434, as amended, 49 Stat. 1544, 54 Stat. 346, 1026, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 375, 391a, 392, 404, 407–412, 367, 1333, 463a, 50 U. S. C. App. 1275.

ITEM VI—PIPING SYSTEMS—MARINE ENGINEERING REGULATIONS (12/51)

16. It is proposed to revise 46 CFR Part 55 in its entirety with regard to piping systems in the Marine Engineering Regulations and Material Specifications (CG 115). The proposals will revise certain requirements for piping systems and will incorporate additional requirements for new materials permitted. The piping material stress table has been revised by incorporating additional piping materials for use in high temperature service and a number of new nonferrous grades of materials have been added. The design pressures for piping systems have been clarified in order to establish minimum design requirements for saturated and superheated steam piping. The requirements for the design of pipe pierced with tube holes have been revised to agree with the A. S. M. E. code. The allowable variations in pressures and temperatures above the design limit for piping have been clarified. Certain requirements covering the design of valves, plug cocks,

and flange joints have been revised to clarify their intent. The design of boiler feed and blow-off piping has been revised to require a design pressure of not less than 125 percent of the maximum allowable pressure of the boiler. The number and location of independent bilge suctions required have been revised to agree with the 1948 Convention for Safety of Life at Sea. Changes have also been made to the fuel oil service requirements to permit a vessel having an auxiliary packaged boiler not exceeding 3000 pounds per hour generating capacity to be equipped with a single fuel oil pump and heater. It is also proposed to no longer require vessels burning fuel oils of low viscosity to be equipped with fuel oil heaters. Certain requirements covering lubricating oil systems have been revised to agree with the American Bureau of Shipping rules. The requirements for sounding pipes have been revised to clarify their intent.

17. The authority for regulations on marine engineering is in R. S. 4405, 4417a, 4418, 4426, and 4429–4434, as amended, 49 Stat. 1544, 54 Stat. 346, 1026, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 375, 391a, 392, 404, 407–412, 367, 1333, 463a, 50 U. S. C. App. 1275.

ITEM VII—ARC WELDING, GAS WELDING, AND BRAZING—MARINE ENGINEERING REGULATIONS (12/51)

18. It is proposed to revise 46 CFR Part 56 in its entirety with regard to arc welding, gas welding, and brazing in the Marine Engineering Regulations and Material Specifications (CG 115). It is proposed to clarify the scope of the regulations; redefine welding terms employed in welding processes to agree with the American Welding Society standards; and to revise certain requirements regarding acceptable types of welded joints to agree with the American Society of Mechanical Engineers codes and American Bureau of Shipping rules. It is proposed to revise the regulations covering arc welding and gas welding to require approval of plans showing the essential fabrication details; requirements for submerged arc welding procedure qualifications; acceptable arc welding electrodes; joint efficiency requirements for classes II and III welded pressure vessels; figures illustrating joint details; requirements for various types of welded joints; seal welding and intermittent welding; stress relieving requirements for class II welded pressure vessels; classes I and II welded piping systems; and slip-on flanges of class I welded type. It is proposed to revise the requirements regarding tests and inspection to provide for spot radiography of welded joints for class II welded pressure vessels designed with a factor of safety of 4. The proposed changes in 46 CFR Part 56 will bring the requirements into closer agreement with American Welding Society standards, American Society of Mechanical Engineers code, Navy Department requrements, or American Bureau of Shipping rules covering the same subjects.

19. The authority for regulations on marine engineering is in R. S. 4405, 4417a, 4418, 4426, and 4429–4434, as amended, 49 Stat. 1544, 54 Stat. 346, 1026, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 375, 391a, 392, 404, 407–412, 367, 1333, 463a, 50 U. S. C. App. 1275.

ITEM VIII—INSTALLATIONS, TESTS, INSPECTIONS, REPAIRS, ETC.—MARINE ENGINEERING REGULATIONS (12/51)

20. It is proposed to revise 46 CFR Part 57 in its entirety with regard to requirements covering installations, tests, inspections, repairs, etc., in the Marine Engineering Regulations and Material Specifications (CG 115). It is proposed to cancel certain regulations containing administrative instructions to Coast Guard marine inspectors and to revise other requirements to agree with procedures presently followed by industry in repairing, installing, testing, and inspecting certain types of marine installation. It is proposed to bring up to date the method for determining the proportional limit of pressure parts to agree with the current American Society of Mechanical Engineers code. The formula for calculating the maximum allowable pressure of the weakest part of the structure under stress has been revised by the substitution of the maximum allowable stress for the average tensile strength which is necessary when the pressure part is subject to temperatures exceeding 650° F. for ferrous materials.

21. The requirements for fusible plugs for boilers have been revised and it is proposed to place these regulations in 46 CFR Part 162 in Subchapter Q—Specifications and they will be designated as "Subpart 162.014—Fusible Plugs for Merchant Vessels." New requirements for fusible plugs in small fire tube boilers have been added. Since the specification for fusible plugs applies primarily to the manufacturing of this equipment, it will not be published in the Marine Engineering Regulations and Material Specifications.

22. The authority for regulations on marine engineering is in R. S. 4405, 4417a, 4418, 4426, and 4429–4434, as amended, 49 Stat. 1544, 54 Stat. 346, 1026, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 375, 391a, 392, 404, 407–412, 367, 1333, 463a, 50 U. S. C. App. 1275.

ITEM IX—STEERING APPARATUS—MARINE ENGINEERING REGULATIONS (55/51)

23. At present requirements for steering apparatus are contained in over 14 different regulations in 46 CFR Chapter I. In order to eliminate conflicting requirements as well as to clarify Coast Guard regulations, it is proposed to eliminate these requirements presently in effect and to place the revised regulations for steering apparatus in 46 CFR Part 55 as a new "Subpart 55.19—Steering Apparatus." Where necessary appropriate cross references will be published in lieu of the complete text in the other subchapters in 46 CFR Chapter I.

24. It is proposed to cancel 46 CFR 32.25–30, 32.35–25, and 32.35–35, with regard to steering apparatus in the Tank Vessel Regulations (CG 123). An appropriate cross reference regarding steering apparatus on tank ships to the proposed regulations in 46 CFR Subpart 55.19 will be inserted. The proposed requirements for steering apparatus on tank barges will also contain the present proviso in 46 CFR 32.35–35 that the requirements for steering apparatus for tank ships shall be met insofar as it is practicable to do so. The proposed regulations for steering apparatus on tank vessels will be made retroactive in effect to July 1, 1951. Since the proposed changes are primarily editorial in nature or only modify present requirements for obtaining uniformity covering steering apparatus requirements, it is felt that this action will not seriously affect new installations, and is recommended primarily in order to maintain a continuity of dates applicable to the general requirements applicable to tank vessels.

25. It is proposed to cancel 46 CFR 46.40, regarding auxiliary steering apparatus in the Load Line Regulations (CG 176). This action is proposed in order to eliminate conflicting requirements.

26. It is proposed to cancel the requirements in 46 CFR 59.61 59.62, 60.55, 60.55a, 76.55, 76.56, 94.54, 94.55, 113.46a, and 113.47, regarding steering apparatus in the various General Rules and Regulations for Vessel Inspection and insert cross references to the requirements in the marine engineering regulations. This proposal is made in order to simplify the presentation of requirements for steering apparatus.

27. The authority for regulations requiring steering apparatus is in R. S. 4405, 4417, 4417a, 4418, 4426, and 4480, as amended, 49 Stat. 1384, 1544, 54 Stat. 346 and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 375, 391, 391a, 392, 404, 474, 369, 367, 1333, 50 U. S. C. App. 1275.

ITEM X—COMPRESSED GASES—DANGEROUS CARGO REGULATIONS (57/51)

28. It is proposed to amend 46 CFR 146.24–1 to 146.24–100, inclusive, regarding detailed regulations governing compressed gases in "Explosives or Other Dangerous Articles on Board Vessels" (CG 187). The proposed revision includes new hazardous articles which have become commercially important and are now being shipped by water in increasing quantities and a number of new containers for compressed gases will be permitted. These changes are being made so that the Coast Guard requirements will agree with the Interstate Commerce Commission's Regulations for similar materials insofar as practicable.

29. The authority for regulations covering the transportation of compressed gases is in R. S. 4405 and 4472, as amended, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 375, 170, and 50 U. S. C. App. 1275.

ITEM XI—POISONOUS ARTICLES—DANGEROUS CARGO REGULATIONS (56/51)

30. It is proposed to amend 46 CFR 146.25–1 to 146.25–100, inclusive, regarding detailed regulations pertaining to poisonous articles in "Explosives or Other Dangerous Articles on Board Vessels" (CG 187). The proposed revision includes new poisonous articles which have become commercially important and are being shipped by water in increasing quantities and a number of new

containers for poisonous materials will be permitted. These changes will revise the Coast Guard requirements so that they will be in agreement with the Interstate Commerce Commission's regulations insofar as practicable. It is proposed to amend the various sections regarding shippers' requirements re packing, marking, labeling, and shipping papers and the detailed requirements set forth in Table 146.25-100.

31. The authority for regulations covering the transportation of poisonous articles is in R. S. 4405, 4472, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 375, 170, and 50 U. S. C. App. 1275.

ITEM XII—EXPLOSIVES—DANGEROUS CARGO REGULATIONS (60/51)

32. It is proposed to revise 46 CFR 146.20-1 to 146.20-100, inclusive, regarding detailed regulations governing explosives in "Explosives or Other Dangerous Articles on Board Vessels" (CG 187). This revision will include a number of new explosives which have become commercially important and are now being shipped by water in increasing quantities, and a number of new containers for explosives will be permitted. New regulations are also proposed which will define an explosive, state type of prohibited or not permitted explosives in water transportation, acceptable explosives for water transportation, and type of class A explosives, as well as revised general requirements regarding classes B and C explosives. These revisions are in agreement with the Interstate Commerce Commission's regulations for such articles insofar as practicable.

33. The authority for regulations governing transportation of explosives is in R. S. 4405 and 4472, as amended, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 375, 170, and 50 U. S. C. App. 1275.

ITEM XIII—MECHANICAL DISENGAGING APPARATUS, LIFEBOAT—SPECIFICATIONS (61/51)

34. It is proposed to amend 46 CFR 160.033-2, 160.033-3, and 160.033-4, regarding requirements for lifeboat mechanical disengaging apparatus. The proposed revision of 46 CFR 160.033-2 revises the specification requirements to agree with the regulations in 46 CFR 59.68 and 60.61, which do not permit the replacing of releasing gear with other than the Rottmer type on ocean and coastwise vessels over 3,000 gross tons. The new requirements to be added to 46 CFR 146.033-3 will require affidavits from the manufacturer relative to the physical and chemical properties of the materials used in order to insure that subsequent releasing gears built will maintain a factor of safety at least equivalent to that provided in the first year tested. The proposed change in 46 CFR 146.033-4 will increase the test load for initial approval of the mechanical disengaging apparatus to an amount equivalent to the weight of a fully loaded lifeboat plus 10 percent in order that this test load will not be less than the load used in the shipboard installation tests as set forth in 46 CFR 59.3a, 60.21a, 76.15a, and 94.14a in the general rules and regulations for Vessel Inspection.

35. The authority for regulations covering lifeboat mechanical disengaging apparatus is in R. S. 4405, 4417a, 4426, 4481, 4488, and 4491, as amended, 35 Stat. 428, 49 Stat. 1544, 54 Stat. 346, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 375, 391a, 404, 474, 481, 489, 396, 367, 1333, and 50 U. S. C. App. 1275.

ITEM XIV—LIFE PRESERVERS OR OTHER LIFESAVING DEVICES (63/51)

36. It is proposed to amend 46 CFR 117.4, with regard to life preservers on ferryboats in the General Rules and Regulations for Vessel Inspection, Rivers (CG 185). The proposed regulation will require children's life preservers on motor propelled river ferry vessels in a number equal to at least 10 percent of the total number of persons carried. This regulation is proposed in order to clarify the intent of the regulations because of the amendments setting forth similar requirements in 46 CFR 25.4-1 (a), 26.2-1, and 27.2-1 in the Motorboat Regulations and 46 CFR 113.44a in the General Rules and Regulations for Vessel Inspection, Rivers, which were added so that motorboats and motor vessels carrying passengers for hire will be equipped with an approved life preserver for every person on board and with an additional number of approved life preservers suitable for children equal to at least 10 percent of the total number of persons carried.

37. The authority for regulations covering children's life preservers on ferry motorboats or ferry motor vessels carrying passengers for hire is in R. S. 4405, 4426, and 4488, as amended, and 54 Stat. 163-167, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 375, 404, 436, 526-526t, and 50 U. S. C. App. 1275.

Dated: August 9, 1951.

[SEAL] A. C. RICHMOND,
Rear Admiral, U. S. Coast Guard, Acting Commandant.

[F. R. Doc. 51-9738; Filed, Aug. 15, 1951; 8:51 a. m.]

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR Part 33]

EXPORT APPLES AND PEARS

MINIMUM QUALITY REQUIREMENTS FOR SHIPMENTS IN EXPORT

Notice is hereby given that the United States Department of Agriculture is considering proposed amendments, as hereinafter set forth, to the regulations (7 CFR Part 33) currently in effect pursuant to the provisions of the so-called Export Apple and Pear Act (48 Stat. 123; 7 U. S. C. 581-589).

All persons who desire to submit written data, views or arguments for consideration in connection with the proposed revision should file same, in duplicate, with the Chief, Regulatory Division, Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C., not later than 10 days after publication hereof in the FEDERAL REGISTER.

The proposal is to amend paragraphs (a) and (b) of § 33.13 to read as follows:

§ 33.13 *Minimum quality requirements for shipments in export*—(a) *Apples.* Any lot of apples in packages shipped or transported in foreign commerce must meet each minimum requirement of the U. S. Utility or the U. S. No. 1 Early grade, as specified in the United States Standards for Apples, issued by the Department on June 28, 1951, effective July 23, 1951, subject to the tolerances for the applicable grade, except that such apples shall not contain apple maggots and, of such apples, not more than 2 percent may have apple maggot injury and not more than 2 percent may be infested with San Jose scale: *Provided,* That any lot of apples in containers conspicuously marked "cannery" may be shipped or transported, as aforesaid, if such lot of apples meets each minimum requirement of the U. S. No. 2 grade, as specified in the U. S. Standards for Apples for Processing, issued August 9, 1946, effective September 2, 1946, and reissued April 14, 1948, subject to a tolerance of 10 percent for defects of this grade and an additional tolerance of 5 percent for apples below any specified minimum size, and an additional tolerance of 10 percent for apples above any specified maximum size.

(b) *Pears.* Any lot of pears in packages shipped or transported in foreign commerce must meet each minimum requirement of the applicable U. S. No. 2 grade, as specified (1) in the U. S. Standards for Summer and Fall Pears, such as Bartlett, Hardy, and other similar varieties, effective June 27, 1940, issued by the Department on June 26, 1940, and reissued September 3, 1946, or (2) in the U. S. Standards for Winter Pears, such as Anjou, Bosc, Winter Nelis, Comice, and other similar varieties, effective July 8, 1940, issued by the Department on June 28, 1940, and reissued on March 23, 1948, subject to the tolerance permitted for such applicable grade, except that such pears shall not contain apple maggots and, of such pears, not more than 2 percent may have apple maggot injury and not more than 2 percent may be infected with San Jose scale: *Provided,* That any lot of pears in containers conspicuously marked "cannery" may be shipped or transported, as aforesaid, if such lot of pears meets each minimum requirement of the U. S. No. 2 grade, as specified in the U. S. Standards for Pears for Canning, effective June 12, 1939, issued by the Department on June 6, 1939, and reissued August 2, 1948, subject to an aggregate tolerance of 10 percent for defects of this grade.

Issued at Washington, D. C., this 13th day of August 1951.

ROY W. LENNARTSON,
Assistant Administrator, Production and Marketing Administration.

[F. R. Doc. 51-9743; Filed, Aug. 15, 1951; 8:52 a. m.]

[7 CFR Part 971]

[Docket No. AO-175-A8]

Handling of Milk in Dayton-Springfield, Ohio, Marketing Area

Notice of Recommended Decision and Opportunity to File Written Exceptions With Respect to Proposed Amendment to Tentative Marketing Agreement, and to Order, as Amended

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of the recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to a proposed amendment to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Dayton-Springfield, Ohio, marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington 25, D. C., not later than the close of business the 5th day after publication of this decision in the Federal Register. Exceptions should be filed in quadruplicate.

Preliminary statement. The hearing, on the record of which the proposed amendment to the tentative marketing agreement and to the order, as amended, was formulated, was conducted at Dayton, Ohio, on June 13, 1951, pursuant to notice thereof which was issued on June 6, 1951 (16 F. R. 5497).

The material issues of record related to:

1. The classification of concentrated milk,
2. The classification of milk transferred by a handler to a person other than a handler,
3. Establishment of provisions to adjust automatically Class I and Class II prices in response to changes in the relationship between market supply and demand,
4. The level of the Class III price for butterfat made into butter and for skim milk, and
5. The amount of deductions for marketing services from payments to producers.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof.

1. Milk used in the manufacture of concentrated milk should be classified in Class I.

Concentrated milk has been introduced in a number of markets during recent months. While its distribution has not yet been undertaken in the marketing area it is being sold in nearby markets and its introduction in the market in the near future is anticipated. This product is not sterilized and is disposed of to consumers for consumption in fluid form by the addition of water or it may be used in the concentrated form as a cream substitute in coffee or on cereals. It is anticipated that the product will be made from milk meeting the same requirements as are applicable to fluid whole milk. Such a requirement is now in effect in the Springfield portion of the marketing area. Accordingly, it is concluded that concentrated milk should properly be classified as Class I milk.

2. Milk transferred by a handler to a person other than a handler should be classified in Class I, or if certain conditions are met, in the highest class remaining after regular receipts from dairy farmers at the plant of the buyer are assigned to the highest classes.

Producers proposed that such transfers of producer milk should be assigned to the highest class at the plant of the buyer. This would result in producer milk being assigned preferentially over any regular dairy farmer receipts at the buyer's plant. This does not appear reasonable or necessary. The proposed provisions will give producer milk the next highest utilization at the plant after regular receipts from dairy farmers are deducted.

Certain conditions must be met before such transfers will be classified in a class lower than Class I. The market administrator must be allowed to audit total receipts and utilization at the plant of the buyer. This is consistent with the provisions which place on the handler the burden of proving use in a class lower than Class I.

3. Provision should be made for automatically adjusting Class I and Class II prices in response to changes in the relationship between market supply and demand.

Although the present provisions for establishing Class I and Class II prices have usually resulted in appropriate prices, conditions have sometimes arisen which made necessary the fixing of prices at levels different from what these provisions would have yielded. In most such cases hearings have been held and prices established on the basis of the record of the hearing. By this procedure the record of the hearing must show the existence or the definite prospect of conditions which warrant a price level different from what the order provisions would yield. By the time such conditions are in existence or in definite prospect and a hearing is held and the required procedures for the hearing and the issuance of an amendment are taken, several months may have intervened between the time when the need for a price change first became apparent and the time when such change is put into effect.

The amendment to Class I and Class II pricing provisions herein concluded to be appropriate cannot be expected to correct all of the problems which arise in the pricing of Class I and Class II milk. Both experience and logic indicate difficulty in reflecting in a formula all of the many factors which affect Class I and Class II prices. However, it is expected that the proposed change will be in the direction of causing more prompt and timely changes in these prices.

Since January 1951 there has been some decline in the market supply of milk in relation to demand. It is difficult to predict with accuracy whether the market will be adequately supplied with milk in the forthcoming fall and winter. If the market is adequately supplied, the amendments proposed herein will have little or no effect on Class I and Class II prices, but if the supply is short the proposed amendments will increase Class I and Class II prices as an incentive for a larger supply.

It is concluded that the measure of the current relationship between market supply and market demand should be based on the ratio of gross Class I and Class II utilization (excluding bulk sales of Class I milk outside of the marketing area to persons other than handlers) to total receipts from producers in a two-month period comprising the second and third months preceding the month for which a price is being computed. Many factors affect market supply and demand, but gross Class I and Class II utilization and total receipts from producers reflect the net effect of all these factors. Extension of recent trends appears to be the most accurate means of estimating current and prospective supply and demand conditions. Class I and Class II volumes should be used as a measure of market demand because, pursuant to local health regulations, all products contained in those classes must be made from milk produced in compliance with such health regulations. Bulk sales of Class I milk outside of the marketing area to persons other than handlers should be excluded because such sales are not made regularly and a portion of such sales by one handler are made from other source milk which that handler regularly receives at his plant from dairy farmers who are not producers.

Use of a 2-month period to establish trends is desirable in order to reflect quickly any changes in supply or demand. However, an adjustment based on a short period of this kind may to some extent reflect random changes in utilization which are not indicative of actual trends. It is necessary, therefore, to provide for some method of stabzilizing this adjustment and of limiting it as to total magnitude. This has been accomplished by grouping the utilization percentages and setting limits on the amount of the adjustment. The percentage groups are in such intervals that no utilization adjustment occurs until utilization is 3 or 4 percentage points above or below the base period utilization. The next percentage group applies to utilization differences of 6 or 7 percent. In the case of any utilization difference falling between groups, the adjustment is determined by the adjacent group which is the same as or nearest to the percentage group used in the previous month. For example, a utilization difference of 5 percent from the base would call for use of the group which includes 3 or 4 percent if the adjustment during the previous month had been determined by that group or a lower one. On the other hand, a 5 percent utilization difference would call for an adjustment based on 6 or 7 percent if the ad-

justment during the previous month had been determined by the 6 and 7 percent group or a higher one. The maximum adjustments provided for are 25 cents, 38 cents, and 50 cents per hundredweight.

Use of the second and third preceding months will permit announcement each month of the effect on Class I and Class II prices of these provisions prior to the beginning of the month. Thus handlers will know in advance how much prices will be changed each month by these provisions.

Producers proposed that Class I and Class II prices be adjusted upward automatically during the period September through February if in the preceding September through February period the ratio between total receipts from producers and total Class I and Class II utilization exceeded a prescribed amount. This would result in a considerable lag between the time when a change in the market supply-demand relationship becomes apparent and the time when prices would be adjusted. Producers found desirability in their proposal because they would know several months in advance what effect it would have on their prices during September through February. It is doubtful if this advantage outweighs the disadvantage of the lag mentioned above. Assurance to producers that Class I and Class II prices will be changed promptly in response to any change in the relationship between market supply and demand for milk should encourage them to continue to produce milk for the Dayton-Springfield market. Producers failed to establish good reasons why the automatic supply-demand relationship price adjustment should be upward but not downward.

The provisions for adjusting Class I and Class II prices in response to changes in the relationship between market supply and demand should be constructed in such a manner that no price adjustment results when market supply and demand are in proper balance—that is, when the market is adequately supplied. Review of market statistics indicates that such a balance existed during 1949. During that year receipts from producers were adequate to supply fully all of the requirements of the market for milk except for a negligible amount of milk from other sources.

The ratio of gross Class I and Class II utilization to total receipts from producers during each two month period of 1949 is as follows:

2-month periods of 1949	Ratio (percent)	Month during which such ratio would be used in computing prices
January and February	86	April.
February and March	80	May.
March and April	74	June.
April and May	66	July.
May and June	63	August.
June and July	65	September.
July and August	70	October.
August and September	77	November.
September and October	83	December.
October and November	87	January.
November and December	89	February.
December and January	89	March.

If the comparable ratio in the second and third months preceding the month for which prices are being computed varies from that shown above the price should be adjusted in the same direction—upward if the current ratio exceeds the one shown above, and downward if the reverse is true. For each percentage point of variation, the Class I and Class II prices should change as follows: 2 cents upward and 4 cents downward for each of the months of April through July; 3 cents for each of the months of January, February, March, August, and September; and 4 cents upward and 2 cents downward for each of the months of October through December. Analysis of Class I and Class II prices and the ratio of gross Class I and Class II utilization to total receipts from producers shows that in recent years the adjustment proposed herein would have resulted in reasonable prices. It should continue to do so. Seasonally varying adjustments should give additional incentive toward reducing the seasonal variation in receipts from producers. In order to prevent the occurrence of a "counter-seasonal" variation in the adjusted Class I differential it should be provided that the adjusted Class I differential for the month of July shall not be more than the adjusted differential for the immediately preceding month of June and the adjusted Class I differential for each of the months of August and September shall not be more than the adjusted differential for the immediately preceding month of June plus 30 cents; and the adjusted Class I differential for each of the months of December, January and February shall not be less than the adjusted differential for the immediately preceding month of November.

4. The price per hundredweight of butterfat made into butter should not be changed at this time.

The proposal to increase the "make allowance" on butterfat made into butter, if adopted, would lower the price. Testimony was presented at the hearing to show that costs of making butter have increased since the present "make allowance" was established in the order. A further justification for a higher "make allowance" on butter was the claim that a higher allowance is included in other orders. By centering only on the "make allowance" for butter the testimony failed to take into account the total price of 100 pounds of milk made into butter and nonfat dry milk solids. The order now provides for a decrease in the price of Class III skim milk of 20 cents per hundredweight during April, May, June and July. It is during these months that most butter is made in this market and the present price during these months provides an adequate allowance for converting milk into butter and Class III skim milk products. During other months the amount of surplus is small enough so that there is no need to convert milk into butter and hence a further reduction in the price for milk made into butter might provide an unjustified incentive to the production of butter in the short season.

It appears that a greater "make allowance" on butter together with the provisions for pricing Class III skim milk would result in a total price for 100 pounds of milk made into butter and nonfat dry milk solids lower than market conditions warrant.

Therefore, it is concluded that the price per hundredweight of butterfat made into butter should not be changed.

The price for Class III skim milk should be reduced 20 cents per hundredweight during each of the months of March and September.

Since the present pricing provisions for Class III skim milk became effective receipts from producers have increased somewhat, particularly in the months of lower production. This is desirable and should be encouraged. However, such increases in supply have resulted in larger volumes of Class III milk to be handled in the months between the flush and short seasons of production. Because of this larger Class III volume a larger proportion of the skim milk in these months must be manufactured into nonfat dry milk solids.

The present pricing formula for Class III skim milk embodies a seasonal decline of 40 cents per hundredweight on April 1 and seasonal increases of 20 cents each on August 1 and September 1. The change herein proposed will make the spring seasonal decline less abrupt by splitting it into two 20-cent declines to occur on March 1 and April 1. Since Class III volumes in March and September are about the same, prices in these two months should be the same.

Handlers proposed, in addition to the changes above recommended, the use of a different quotation for nonfat dry milk solids which is generally lower than the one presently used. They contended that the proposed quotation was more representative of the value of nonfat dry milk solids manufactured by handlers than the one presently used. The present deduction of 20 cents from the Class III formula computation during the months of April through July was designed to reflect this difference. Therefore any shift in quotations should be accompanied by a compensating change in the 20 cent deduction. Since handlers did not show that the quotation proposed by them reflected more accurately changes in the value of Class III milk, no advantage is apparent in changing quotations.

It is therefore concluded that the price for Class III skim milk should be reduced 20 cents during each of the months of March and September.

5. The maximum allowable amount of the deduction for marketing services made from payments to producers should be increased to 6 cents per hundredweight of milk.

It is desirable that the market administrator continue to perform the marketing services for which these deductions are intended to the same extent as formerly. In recent months the funds which the market administrator uses to perform these services have been depleted. In order to insure sufficient funds for continuation of those services the maximum allowable deduction should be increased to 6 cents per hundredweight of milk.

General findings. (a) The proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, and all of the terms

and conditions thereof will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supply of and demand for milk, in the marketing area and the minimum prices specified in the proposed marketing agreement and the order, as amended, and as hereby proposed to be further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The proposed order, as amended, and as hereby proposed to be further amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

Rulings on proposed findings and conclusions. No briefs or proposed findings or conclusions were filed.

Recommended Marketing Agreement and amendment to the order. The following amendment to the order is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be identical with those contained in the order, as amended, and as hereby proposed to be further amended.

1. Amend § 971.4 (b) (1) to read as follows:

(1) Class I milk shall be all skim milk and butterfat (i) disposed of in fluid form (except that which was dumped or disposed of for livestock feeding) as milk, including reconstituted milk, skim milk, buttermilk, flavored milk, or flavored milk drinks; (ii) used to produce concentrated milk (excluding those products commonly known as evaporated milk and condensed milk) for fluid consumption; and (iii) not specifically accounted for as Class II or Class III milk.

2. Amend § 971.4 (d) (1) (iii) to read as follows:

(iii) As Class I milk if transferred by a handler to a person other than a handler who distributes milk in fluid form or manufacturs milk products, unless the market administrator is permitted to audit the records of receipts and utilization at the plant of the buyer, in which case the classification of all skim milk and butterfat received at the plant of the buyer shall be determined and the skim milk and butterfat transferred by the handler shall be allocated to the highest use remaining after subtracting, in series beginning with Class I milk, receipts of skim milk and butterfat at the plant of the buyer directly from dairy farmers who the market administrator determines constitute the regular source of supply for the plant of the buyer.

3. Amend § 971.5 (b) (1) to read as follows:

(1) Add to the basic formula price $0.75 during each of the months of April through July and $1.05 during each of the other months of the year, and add or subtract "a supply-demand adjustment" computed as follows:

(i) Divide the total gross volume of Class I milk and Class II milk (less interhandler transfers and less bulk transfers of milk from handlers to persons other than handlers outside the marketing area) in the second and third months preceding by total receipts of milk from producers for the same months, multiply the result by 100, and round to the nearest whole number. The result shall be known as the Class I and Class II utilization percentage.

(ii) Compute a "net utilization percentage" by subtracting the utilization percentage as computed in subdivision (i) of this subparagraph from the Class I and Class II percentage shown below:

Month for which price is being computed:	*Class I and Class II utilization percentage*
January	87
February	89
March	89
April	86
May	80
June	74
July	66
August	63
September	65
October	70
November	77
December	83

(iii) Determine the amount of the supply-demand adjustment as follows:

If net utilization percentage is—	Supply-demand adjustment for specified months is—		
	Jan., Feb., Mar., Aug., and Sept.	Apr., May, June, and July	Oct., Nov., and Dec.
+12 or over	+38	+25	+50
+9 or 10	+28	+19	+38
+6 or 7	+20	+13	+26
+3 or 4	+10	+7	+14
+1 or −1	0	0	0
−3 or −4	−10	−14	−7
−6 or −7	−20	−26	−13
−9 or −10	−28	−38	−19
−12 or −13	−38	−50	−25
−15 or −16	−38	−50	−31
−18 or −19	−38	−50	−37
−21 or −22	−38	−50	−43
−24 or under	−38	−50	−50

When the difference from the base period Class I and Class II utilization percentage does not fall within the tabulated brackets, the adjustment shall be determined by the adjacent bracket which is the same as or nearest to the bracket used in the previous month: *Provided*, That the Class I differential adjusted pursuant to this subparagraph for the month of July shall not be more than such adjusted differential for the immediately preceding month of June and for each of the months of August and September the Class I differential adjusted pursuant to this subparagraph shall not be more than such adjusted differential for the immediately preceding month of June plus 30 cents; and the Class I differential adjusted pursuant to this subparagraph for each of the months of December, January and February shall not be less than the adjusted differential for the immediately preceding month of November.

4. Amend § 971.5 (c) (1) to read as follows:

(1) Subtract $0.30 from the Class I price.

5. Amend § 971.5 (d) (2) to read as follows:

(2) The price per hundredweight of such skim milk shall be computed by dividing the amount computed pursuant to paragraph (a) (3) (ii) of this section by 0.965: *Provided*, That for each of the months of April through July, 20 cents shall be subtracted from the amount so computed, and during the months of October through February 20 cents shall be added to the amount so computed.

6. Amend § 971.10 (a) by deleting the figure "5 cents" contained therein and substituting therefor the figure "6 cents".

Filed at Washington, D. C., this 13th day of August 1951.

[SEAL] ROY W. LENNARTSON,
Assistant Administrator.

[F. R. Doc. 51-9744; Filed, Aug. 15, 1951; 8:52 a. m.]

[7 CFR Part 986]

HANDLING OF HOPS GROWN IN OREGON, CALIFORNIA, WASHINGTON, AND IDAHO, AND OF HOP PRODUCTS PRODUCED THEREFROM IN THESE STATES

SALABLE QUANTITY OF 1951 CROP HOPS

Notice is hereby given that the Department is considering the issuance of the proposed administrative rule herein set forth pursuant to the provisions of Marketing Agreement No. 107 and Order No. 86, regulating the handling of hops grown in Oregon, California, Washington, and Idaho, and of hop products produced therefrom in these States (7 CFR Part 986), effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

Prior to the final issuance of such administrative rule consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Director, Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, Washington 25, D. C., and which are received not later than the close of business on the tenth day after date of publication of this notice in the FEDERAL REGISTER, except that, if said tenth day after publication should fall on a holiday or Sunday, such submission may be received by the Director not later than the close of business on the next following work day.

Pursuant to provisions of the aforesaid agreement and order the Hop Control Board, the administrative agency thereunder, has transmitted to the Secretary of Agriculture its estimates relating to consumptive demand for hops and hop stocks, and has recommended that

the salable quantity of 1951 crop hops be fixed at 46,500,000 pounds.

The Board's estimates and recommendation and other information available to the Secretary was considered and it is proposed to accept such estimates and recommendation. In arriving at the proposed salable quantity, consumptive demand for the 12 months beginning September 1, 1951, was estimated at 49,665,000 pounds, comprised of domestic usage for brewing 36,984,000 pounds, other domestic usage 600,000 pounds, and exports 12,700,000 pounds. An allowance was made for an estimated decrease of 619,000 pounds in brewers' hop stocks during the period. It was estimated that imports during the 12 months beginning September 1, 1951, will be 3,000,000 pounds, which subtracted from the estimated consumptive demand results in a quantity of 46,665,000 pounds, representing the salable quantity to be supplied from 1951 crop hops produced in the United States. In making its recommendation of 46,500,000 pounds as the salable quantity for 1951 crop hops, the Board took into consideration the fact that a small quantity of hops will be produced in the United States outside the four-State production area which will be available for use in supplying consumptive demand. It was estimated that the fixing of the salable quantity at 46,500,000 pounds will result in a reduction in the stocks of hops in the hands of brewers, dealers, and growers as of September 1, 1952, to 26,000,000 pounds from the estimated stocks of 26,619,000 pounds as of September 1, 1951.

Therefore, such proposed administrative rule is as follows:

§ 986.203 *Salable quantity of 1951 crop hops.* The maximum quantity of hops produced during 1951 which may be handled in the form of hops and in the form of any hop product shall be 46,500,000 pounds (net dry weight).

Issued at Washington, D. C., this 13th day of August 1951.

[SEAL] S. R. SMITH,
Director,
Fruit and Vegetable Branch.

[F. R. Doc. 51-9742; Filed, Aug. 15, 1951; 8:51 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

AIR NAVIGATION SITE WITHDRAWAL NO. 258, ENLARGEMENT

AUGUST 7, 1951.

By virtue of the authority contained in section 4 of the act of May 24, 1928 (45 Stat. 729; 49 U. S. C. 214), and pursuant to section 2.22 (2) of Delegation Order No. 427, of August 16, 1950 (15 F. R. 5641), the following described tract of land is hereby added to Air Navigation Site Withdrawal No. 258, established February 15, 1950:

Beginning at the east corner of Air Navigation Site Withdrawal No. 258, in the vicinity of Golovin, Second Judicial Division, Territory of Alaska, thence
S. 23° 07' W. 800.6 feet,
S. 56° 43' W. 1,232 feet to the south corner of said withdrawal,
N. 43° 35' E. 1,950 feet along the SE. boundary line of said withdrawal to the point of beginning.

The tract described contains approximately 6.3 acres (more or less).

It is intended that the public land described herein shall return to the administration of the Department of the Interior when it is no longer needed for the purpose for which it is reserved.

LOWELL M. PUCKETT,
Regional Administrator.

[F. R. Doc. 51-9706; Filed, Aug. 15, 1951; 8:46 a. m.]

[Misc. 52682]

IDAHO

ORDER PROVIDING FOR THE OPENING OF PUBLIC LANDS RESTORED FROM THE BOISE PROJECT

AUGUST 8, 1951.

An order of the Bureau of Reclamation dated May 17, 1949, concurred in by the Associate Director, Bureau of Land Management, May 27, 1949, revoked the Departmental orders of December 22, 1903 and June 22, 1915, so far as they withdrew in the first form prescribed by section 3 of the Reclamation Act of June 17, 1902 (32 Stat. 388), the following described lands in connection with the Boise Project, Idaho, and provided that such revocation shall not affect the withdrawal of any other lands by said orders or affect any other order withdrawing or reserving the lands described:

BOISE MERIDIAN

T. 3 N., R. 4 W.,
Sec. 5, lots 3, 4, SE¼NW¼;
Sec. 23 E½SE¼;
Sec. 24, SW¼SW¼.

The above areas aggregate 240.70 acres.

The lands are suitable for agricultural development with irrigation.

No applications for these lands may be allowed under the homestead, small tract, desert-land, or any other nonmineral public-land laws, unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon consideration of an application.

This order shall not otherwise become effective to change the status of such lands until 10:00 a. m. on the 35th day after the date of this order. At that time the said lands shall, subject to valid existing rights and the provisions of existing withdrawals, become subject to application, petition, location, and selection as follows:

(a) *Ninety-one day period for preference-right filings.* For a period of 91 days, commencing at the hour and on the day specified above, the public lands affected by this order shall be subject only to (1) application under the homestead or the desert-land laws or the Small Tract Act of June 1, 1938, 52 Stat. 609 (43 U. S. C. 682a), as amended by qualified veterans of World War II and other qualified persons entitled to preference under the act of September 27, 1944, 58 Stat. 747 (43 U. S. C. 279-284), as amended, subject to the requirements of applicable law, and (2) application under any applicable public-land law, based on prior existing valid settlement rights and preference rights conferred by existing laws or equitable claims subject to allowance and confirmation. Applications under subdivision (1) of this paragraph shall be subject to applications and claims of the classes described in subdivision (2) of this paragraph. All applications filed under this paragraph either at or before 10:00 a. m. on the 35th day after the date of this order shall be treated as though filed simultaneously at that time. All applications filed under this paragraph after 10:00 a. m. on the said 35th day shall be considered in the order of filing.

(b) *Date for non-preference-right filings.* Commencing at 10:00 a. m. on the 126th day after the date of this order, any lands remaining unappropriated shall become subject to such application, petition, location, selection, or other appropriation by the public generally as may be authorized by the public-land laws. All such applications filed either at or before 10:00 a. m. on the 126th day after the date of this order, shall be treated as though filed simultaneously at the hour specified on such 126th day. All applications filed thereafter shall be considered in the order of filing.

A veteran shall accompany his application with a complete photostatic, or other copy (both sides), of his certificate of honorable discharge, or of an official document of his branch of the service which shows clearly his honorable discharge as defined in § 181.36 of Title 43 of the Code of Federal Regulations, or constitutes evidence of other facts upon which the claim for preference is based and which shows clearly the period of service. Other persons claiming credit for service of veterans must furnish like proof in support of their claims. Persons asserting preference rights, through settlement or otherwise, and those having equitable claims, shall accompany their applications by duly corroborated

statements in support thereof, setting forth in detail all facts relevant to their claims.

Applications for these lands, which shall be filed in the Land and Survey Office, Boise, Idaho, shall be acted upon in accordance with the regulations contained in § 295.8 of Title 43 of the Code of Federal Regulations and Part 296 of that title, to the extent that such regulations are applicable. Applications under the homestead laws shall be governed by the regulations contained in Parts 166 to 170, inclusive, of Title 43 of the Code of Federal Regulations, and applications under the desert-land laws and the said Small Tract Act of June 1, 1938, shall be governed by the regulations contained in Parts 232 and 257, respectively, of that title.

Inquiries concerning these lands shall be addressed to the Manager, Land and Survey Office, Boise, Idaho.

MARION CLAWSON,
Director.

[F. R. Doc. 51-9707; Filed, Aug. 15, 1951; 8:46 a. m.]

Office of the Secretary

WISCONSIN

NOTICE FOR FILING OBJECTIONS TO RESERVATION OF CERTAIN PUBLIC LANDS IN CONNECTION WITH THE TOTOGATIC CONSERVATION AREA [1]

For a period of 30 days from the date of publication of the above entitled order, persons having cause to object to the terms thereof may present their objections to the Secretary of the Interior. Such objections should be in writing, should be addressed to the Secretary of the Interior, and should be filed in duplicate in the Department of the Interior, Washington 25, D. C. In case any objection is filed and the nature of the opposition is such as to warrant it, a public hearing will be held at a convenient time and place, which will be announced, where opponents to the order may state their views and where the proponents of the order can explain its purpose, intent, and extent. Should any objection be filed, whether or not a hearing is held, notice of the determination by the Secretary as to whether the order should be rescinded, modified or let stand will be given to all interested parties of record and the general public.

R. D. SEARLES,
Acting Secretary of the Interior.

AUGUST 9, 1951.

[F. R. Doc. 51-9704; Filed, Aug. 15, 1951; 8:45 a. m.]

DEPARTMENT OF DEFENSE

Department of the Army

STATEMENT OF ORGANIZATION AND FUNCTIONS

CENTRAL AND FIELD AGENCIES

Section 1 of the statement of organization and functions appearing at 15 F. R. 6639, October 3, 1950, is amended by changing subparagraph (7) of paragraph (e), and by adding subparagraphs (17) (vii) and (23-1) to paragraph (e), as follows:

SECTION 1. *Description of central and field agencies.* * * *

(e) *Organization of Department of the Army.* * * *

(7) *Deputy Chief of Staff for Operations and Administration.* The Deputy Chief of Staff for Operations and Administration is responsible to the Chief of Staff for the coordinated execution of approved Army plans and programs in all operational and administrative activities and for the coordination of implementation plans therefor.

* * * * * *

(17) *Special Staff.* * * *

(vii) Office of the Chief of Psychological Warfare.

* * * * * *

(23-1) *Chief of Psychological Warfare.* The Chief of Psychological Warfare formulates and develops psychological and special operations plans for the Army in consonance with established policy and recommends policies for and supervises the execution of Department of the Army programs in these fields.

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[SEAL] WM. E. BERGIN,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 51-9714; Filed, Aug. 15, 1951; 8:47 a. m.]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

SALES OF CERTAIN COMMODITIES AT FIXED PRICES

AUGUST DOMESTIC AND EXPORT PRICE LIST

Pursuant to the Pricing Policy of Commodity Credit Corporation issued March 22, 1950 (15 F. R. 1583), and subject to the conditions stated therein, the following commodities are available for sale in the quantities and at the prices stated:

AUGUST DOMESTIC PRICE LIST

Commodity and approximate quantity available (subject to prior sale)	Domestic sales price
Dried whole eggs—1950 pack (packed in barrels and drums) in carload lots only, 1,000,000 pounds.[1]	$1.03 per pound "in store" at location of stock in Illinois, Indiana, Iowa, Michigan, Ohio, Oklahoma, Texas, Kansas, Missouri, Nebraska, Minnesota, Wisconsin, New York, and Delaware ("in store" means in storage at warehouse, but with any prepaid storage and out-handling charges for the benefit of the buyer).
Nonfat dry milk solids—1951 production, in carload lots only, 20,000,000 pounds.	Spray process—15½ cents per pound "in store" at location of stock in any State ("in store" means at the processor's plant or in storage at warehouse, but with any prepaid storage and out-handling charges for the benefit of the buyer). (See note on Ceiling Price Certification at the end of this price list.)
Linseed oil, raw 217,000,000 pounds.	Market price on date of sale. (See note on Ceiling Price Certification at the end of this price list.)
Dry edible beans	On all beans, for areas other than those shown below, adjust prices upward or downward by an amount equal to the price support program differential between areas. Where no price support differential occurs, the price listed will apply. For other grades of all beans, adjust by market differentials. Prices listed below, on all beans, are at point of production. Amount of any paid-in freight to be added.
Pinto, bagged 1,615,000 hundredweight.	No. 1 Grade, 1948 [1] and 1949 crops: $8.19 per 100 pounds, basis f. o. b. Denver rate area and California area; $7.79 per 100 pounds, basis f. o. b. Idaho area.
Peas, bagged 860,000 hundredweight.	No. 1 Grade 1948 [1] and 1949 crops: $7.91 per 100 pounds, basis f. o. b. Michigan area.
Red Kidney, bagged 450,000 hundredweight.	No. 1 Grade 1948 [1] and 1949 crops: $9.37 per 100 pounds, basis f. o. b. New York area.
Great Northern, bagged 1,650,000 hundredweight	No. 1 Grade 1948 [1] and 1949 crops: $7.23 per 100 pounds, basis f. o. b. Twin Falls, Idaho, area; $7.60 per 100 pounds, basis f. o. b. Morrill, Nebr., area.
Baby Lima, bagged 615,000 hundredweight.	No. 1 Grade 1948 [1] and 1949 crops: $8.02 per 100 pounds, basis f. o. b. California area.
Cranberry beans, bagged 75,000 hundredweight.	No. 1 Grade 1949 crop: $8.66 per 100 pounds, basis f. o. b. California and Michigan areas.
Austrien winter pea seed, bagged 2,330,000 hundredweight.	$4.50 per 100 pounds, basis f. o. b. point of production; plus any paid-in freight.
Blue Lupine seed, bagged, 1,330,000 hundredweight.	$5 per 100 pounds, basis f. o. b. point of production; plus any paid-in freight.
Kobe Lespedeza seed, bagged 564,000 hundredweight.	$13.49 per 100 pounds, basis f. o. b. point of production; plus any paid-in freight.
Weeping Lovegrass seed, bagged, 910 hundredweight.	$51.50 per 100 pounds, basis f. o. b. point of production; plus any paid-in freight.
Common and Willamette Vetch seed, bagged, 21,000 hundredweight.	$7 per 100 pounds, basis f. o. b. point of production; plus any paid-in freight.
Alfalfa Seed (Southern, Certified or Registered), bagged, 11,000 hundredweight.	$26.68 per 100 pounds, basis f. o. b. point of production; plus any paid-in freight.
Red Clover Seed (Uncertified), bagged 49,000 hundredweight.	$37.21 per 100 pounds, basis f. o. b. point of production; plus any paid-in freight.
Wheat, bulk 5,000,000 bushels	This wheat is available only when premium wheat is required or where emergency situations exist. Basis in store, the market price but in no event less than the applicable 1951 loan rate for the class, grade, quality, and location, plus: (1) 20 cents per bushel if received by truck or; (2) 15 cents per bushel if received by rail or barge. Examples of minimum prices, per bushel: Kansas City, Mo. No. 1 HW, ex rail or barge, $2.60; Minneapolis, No. 1 DNS, ex rail or barge, $2.62; Chicago, No. 1 RW, ex rail or barge, $2.65. NOTE: No wheat will be for sale in the Portland, Oreg. area until further notice.
Oats, bulk, 7,400,000 bushels	At points of production, basis in store, the market price but not less than the applicable 1951 county loan rate plus: (1) 12 cents per bushel, if received by truck, or (2) 11 cents per bushel, if received by rail or barge. At other points, the foregoing plus average paid-in freight: Examples of minimum prices, per bushel: Chicago, No. 3 or better, ex rail or barge, 95 cents; Minneapolis, No. 3 or better, ex rail or barge, 91 cents.
Barley, bulk, 19,600,000 bushels	Basis in store, the market price but in no event less than the applicable 1951 loan rate for the class, grade, quality, and location, plus: (1) 19 cents per bushel if received by truck; or (2) 15 cents per bushel if received by rail or barge. Examples of minimum prices per bushel: Minneapolis, No. 1 barley, ex rail or barge $1.47; San Francisco, No. 1 western barley, ex rail or barge $1.52.

[1] See F. R. Doc. 51-9705, *supra.*

[1] These same lots are available at export sales prices announced today.

AUGUST DOMESTIC PRICE LIST—Continued

Commodity and approximate quantity available (subject to prior sale)	Domestic sales price
Corn, bulk, 50,000,000 bushels	1950 commercial corn-producing area: At points of production, basis in store, the market price but not less than the applicable 1950 county loan rate for No. 3 yellow, plus 27 cents per bushel, with market differentials for other grades, quality, and classes. At other delivery points: (1) the foregoing, plus average paid-in freight, or (2) basis the following fixed minimum terminal prices, with market differentials for grade, quality, and class, and freight differentials for location. Fixed minimum prices, per bushel: Chicago, No. 3 yellow, $1.89; St. Louis, No. 3 yellow, $1.89; Minneapolis, No. 3 yellow, $1.82; Omaha, No. 3 yellow, $1.81; Kansas City, No. 3 yellow, $1.85. Market differentials for other grades, quality, and classes. 1950 non-commercial corn-producing area: At points of production, or originating in a noncommercial county, basis in store, the market price but not less than 133 percent of the applicable 1950 county loan rate for No. 3, plus 27 cents per bushel; at other points, the foregoing plus average paid-in freight. If originating in a commercial county, the county loan rate for No. 3 plus 27 cents, plus average paid-in freight. Example of minimum price, per bushel: 1950 county loan rate for Brown County, Ind., $1.10 per bushel, No. 3 corn; 133 percent of $1.10, plus 27 cents equals $1.74 per bushel, the minimum sales price.
Flaxseed, bulk, 2,700,000 bushels	The market price on date of sale at place of delivery but not less than the following: No. 1, $3.50 per net bushel, bulk, in store, Minneapolis. For other markets and other grades, adjust by market differentials.

Ceiling price certification. Any purchaser from CCC of nonfat dry milk solids, or raw linseed oil, must be able and will be required to certify that the price paid to CCC does not exceed the highest ceiling price he could pay any of his usual suppliers for the commodity in the quantity and at the place and season that delivery is made.

AUGUST EXPORT PRICE LIST

Commodity and approximate quantity available (subject to prior sale)	Export sales price
Dried whole eggs: 1950 pack (packed in barrels and drums) in carload lots only. 10,000,000 pounds.	(1) 60c per lb. f. a. s. vessel any U. S. Gulf or East Coast Port; or (2) 60c per lb. "in store" at location of stock, less freight based on the average gross shipping weight calculated at the lowest export freight rate. ("In store" means in storage at warehouse, but with any prepaid storage and outhandling charges for the benefit of the buyer.)
Dry edible beans	No. 1 Grade 1948 crop, f. a. s. vessel at locations shown below:
Pinto, bagged, 795,000 hundredweight.[1]	$4.90 per 100 pounds., San Francisco Bay area and Portland, Oreg.; $5.00 per 100 pounds, U. S. Gulf ports. (See note below.)
Pea, bagged, 120,000 hundredweight.[1 2]	For export to Western Hemisphere countries—$6.50 per 100 pounds, East Coast ports; for export to other than Western Hemisphere countries—$5.50 per 100 pounds, East Coast ports.
Great Northern, bagged 585,000 hundredweight.[1 2]	$6.50 per 100 pounds, Portland, Oreg. (26,000 hundredweight only stored at The Dalles, Oreg.); $6.60 per 100 pounds U. S. Gulf ports. (See note below.)
Baby Lima, bagged, 90,000 hundredweight.[1]	$5 per 100 pounds, San Francisco Bay area.
Red Kidney, bagged 350,000 hundredweight.[1 2]	$6.50 per 100 pounds, New York. NOTE: "U. S. Gulf ports" means ports with freight rates not greater than to New Orleans. Any excess freight will be for account of the buyer. Discounts for grades on all beans: No. 2, 25 cents less than No. 1; No. 3, 50 cents less than No. 1. At CCC's option, 1949 crop beans may be furnished in place of 1948 beans in instances where stocks of 1948 beans of the type and grade desired are exhausted.
Austrian Winter Pea seed, bagged 2,330,000 hundredweight.[1]	Market price on date of sale at place of delivery, provided delivery takes place within 15 days unless otherwise agreed upon.

[1] These same lots also are available at domestic sales prices announced today.
[2] Ceiling price certification. Any purchaser from CCC of Red Kidney beans or Great Northern beans for export, or of Pea beans for export to Western Hemisphere countries, must be able and will be required to certify that the price paid to CCC does not exceed the highest ceiling price he could pay any of his usual suppliers for the commodity in the quantity and at the place and season that delivery is made.

(Pub. Law 439, 81st Cong.)

Issued August 13, 1951.

[SEAL]

G. F. GEISSLER,
President,
Commodity Credit Corporation.

[F. R. Doc. 51-9745; Filed, Aug. 15, 1951; 8:52 a. m.]

Farm Credit Administration

[Farm Credit Administration Order 527]

COOPERATIVE BANK COMMISSIONER, DEPUTY COOPERATIVE BANK COMMISSIONER, ASSISTANT COOPERATIVE BANK COMMISSIONER, AND ASSISTANT DEPUTY COOPERATIVE BANK COMMISSIONER

DELEGATION OF AUTHORITY TO PERFORM CERTAIN FUNCTIONS, POWERS, AUTHORITY, AND DUTIES

Correction

In Federal Register Document 51-9303, published on page 7830 of the issue for Thursday, August 9, 1951, the name "B. F. Wiehmann" should read "B. F. Viehmann".

Office of the Secretary

DESIGNATION OF DISASTER AREAS HAVING NEED FOR AGRICULTURAL CREDIT

Pursuant to the authority contained in Public Law 38, 81st Congress, approved April 6, 1949, the following designations of disaster areas were made as having a need for agricultural credit:

COLORADO

The following counties were designated, on May 24, 1951, as disaster areas due to severe drought and insect infestation. After June 30, 1952, disaster loans will not be made except to borrowers who previously received such assistance.

Archuleta.
Dolores.
La Plata.
Montezuma.

FLORIDA

The following county was designated, on July 3, 1951, as a disaster area due to adverse weather conditions. After June 30, 1952, disaster loans will not be made except to borrowers who previously received such assistance.

Hardee.

Disaster loans made as a result of disasters in counties designated on October 24, 1950 and November 2, 1950 (16 F. R. 590), will not be made after June 30, 1952, except to borrowers who previously received such assistance.

GEORGIA

The designation of 60 counties on December 7, 1950 (16 F. R. 590), as disaster areas is amended to include all counties in the State. After June 30, 1951, disaster loans will not be made except to borrowers who previously received such assistance.

HAWAII

The following county was designated, on April 26, 1951, as a disaster area due to excessive rainfall. After December 31, 1951, disaster loans will not be made except to borrowers who previously received such assistance.

Honolulu (entire Oahu Island).

ILLINOIS

The following counties were designated on July 21, 1951, as disaster areas due to excessive rainfall and flood conditions:

Ford.
Iriquois.
Livingston.

IOWA

The following counties were designated on July 17, 1951, as disaster areas due to excessive rainfall and floods:

Adair.
Adams.
Appanoose.
Audubon.
Calhoun.
Carroll.
Cass.
Clarke.
Crawford.
Davis.
Decatur.
Fremont.
Greene.
Guthrie.
Harrison.
Ida.
Lucas.
Madison.
Mills.
Monona.
Monroe.
Montgomery.
Page.
Pottawattamie.
Ringgold.
Sac.
Shelby.
Taylor.
Union.
Wapello.
Warren.
Wayne.
Woodbury.

KANSAS

The entire State of Kansas was designated on July 17, 1951, as a disaster area due to excessive rainfall and floods.

LOUISIANA

The following parishes were designated on April 12, 1951, as disaster areas

due to adverse weather conditions. After December 31, 1951, disaster loans will not be made except to borrowers who previously received such assistance.

Plaquemines.	Tangipahoa.
St. Tammany.	Washington.

MINNESOTA

The following counties were designated, on January 26, 1951, as disaster areas due to adverse weather conditions. After December 30, 1951 disaster loans will not be made except to borrowers who previously received such assistance.

Anoka.	Lake of the Woods.
Benton.	Mille Lacs.
Chisago.	Morrison.
Isanti.	Pine.
Kanabec.	Sherburne.

The following counties were designated, on April 26, 1951, as disaster areas due to flood conditions. After December 31, 1951 disaster loans will not be made except to borrowers who previously received such assistance.

Blue Earth.	Nicollet.
Carver.	Sibley.
Le Sueur.	

MISSOURI

The following counties were designated, on December 15, 1950, as disaster areas due to adverse weather conditions and insect infestation. After June 30, 1951 disaster loans will not be made except to borrowers who previously received such assistance.

Butler.	Pemiscot.
Dunklin.	Ripley.
Mississippi.	Scott.
New Madrid.	Stoddard.

The following counties were designated, on July 17, 1951, as disaster areas due to excessive rainfall and flood conditions:

Andrew.	Jefferson.
Atchison.	Johnson.
Barton.	Lafayette.
Bates.	Mercer.
Benton.	Miller.
Boone.	Mississippi.
Butler.	Moniteau.
Caldwell	Montgomery.
Callaway.	Morgan.
Cape Girardeau.	New Madrid.
Carroll.	Nodaway.
Cass.	Osage.
Chariton.	Pemiscot.
Clay.	Perry.
Clinton.	Pettis.
Cole.	Platte.
Cooper.	Ray.
Daviess.	Ripley.
DeKalb.	St. Charles.
Dunklin.	St. Clair.
Franklin.	St. Genevieve.
Gentry.	St. Louis.
Grundy.	Saline.
Harrison.	Scott.
Henry.	Stoddard.
Holt.	Vernon.
Howard.	Warren.
Jackson.	Worth.
Jasper.	

The following counties were designated, on July 19, 1951, as disaster areas due to severe floods and excessive rainfall:

Buchanan. Gasconade. Livingston.

MONTANA

The following counties were designated, on February 8, 1951, as disaster areas due to adverse weather conditions. After December 30, 1951, disaster loans will not be made except to borrowers who previously received such assistance.

Glacier. Teton.

NEBRASKA

The following counties were designated, on February 21, 1951, as disaster areas due to adverse weather conditions and insect infestation. After December 31, 1951 disaster loans will not be made except to borrowers who previously received such assistance.

Box Butte.	Scotts Bluff.
Dawes.	Sheridan.
Morrill.	Sioux.

NEW MEXICO

The entire State of New Mexico was designated, on April 6, 1951, as a disaster area due to prolonged drought and insect infestation.

NEW YORK

The entire State of New York was designated, on December 21, 1950, as a disaster area due to severe rain and windstorm. After June 30, 1951, disaster loans will not be made except to borrowers who previously received such assistance.

OKLAHOMA

The following counties were designated, on July 20, 1951, as disaster areas due to flood conditions:

Delaware.	Ottawa.
Mayes.	Rogers.
Muskogee.	Wagoner.
Nowáta.	

OREGON

The following county was designated, on January 11, 1951, as a disaster area due to excessive rainfall. After December 31, 1951, disaster loans will not be made except to borrowers who previously received such assistance.

Jefferson.

SOUTH DAKOTA

The following counties were designated, on January 26, 1951, as disaster areas due to adverse weather conditions. After June 30, 1951, disaster loans will not be made except to borrowers who previously received such assistance.

Aurora.	Hand.
Beadle.	Hughes.
Brown.	Hyde.
Brule.	Hamlin.
Buffalo.	Jerauld.
Campbell.	Kingsbury.
Charles Mix.	Marshall.
Clark.	McPherson.
Codington.	Potter.
Corson.	Roberts.
Davison.	Sanborn.
Day.	Spink.
Dewey.	Stanley.
Douglas.	Sully.
Edmunds.	Walworth.
Faulk.	Ziebach.

TENNESSEE

The following counties were designated, on January 11, 1951, as disaster areas due to excessive rainfall and heavy boll weevil infestation. After June 30, 1951, disaster loans will not be made except to borrowers who previously received such assistance.

Chester.	Hardin.
Decatur.	Henderson.
Fayette.	McNairy.
Hardeman.	Shelby.

The following county was designated, on February 21, 1951, as a disaster area due to excessive rainfall. After June 30, 1951, disaster loans will not be made except to borrowers who previously received such assistance.

Dyer.

TEXAS

The following counties were designated, on February 21, 1951, as disaster areas due to freezing temperatures. After December 31, 1951, disaster loans will not be made except to borrowers who previously received such assistance.

Cameron. Hidalgo. Willacy.

The following county was designated, on February 21, 1951, as a disaster area due to adverse weather conditions. After June 30, 1951, disaster loans will not be made except to borrowers who previously received such assistance.

Cochran.

The following counties were designated, on March 23, 1951, as disaster areas due to adverse weather conditions. After June 30, 1952, disaster loans will not be made except to borrowers who previously received such assistance.

Brooks,	Jim Wells.
Duval.	Kleberg.
Jim Hogg.	

The following counties were designated, on April 26, 1951, as disaster areas due to prolonged drought and insect infestation. After June 30, 1951, disaster loans will not be made except to borrowers who previously received such assistance.

Hemphill. Roberts.

VIRGINIA

The following county was designated, on February 21, 1951, as a disaster area due to excessive rainfall and heavy boll weevil infestation. After December 31, 1951 disaster loans will not be made except to borrowers who previously received such assistance.

Brunswick.

WASHINGTON

The following counties were designated, on March 6, 1951, as disaster areas due to excessive rainfall and flood conditions. After December 31, 1951, disaster loans will not be made except to borrowers who previously received such assistance.

King. Skagit. Snohomish. Whatcom.

Done at Washington, D. C., this 10th day of August 1951.

[SEAL] C. J. McCORMICK,
Acting Secretary of Agriculture.

[F. R. Doc. 51-9723; Filed, Aug. 15, 1951; 8:48 a. m.]

DEPARTMENT OF LABOR

Office of the Secretary

ORGANIZATION AND FUNCTIONS

Pursuant to authority conferred by R. S. 161 (5 U. S. C. 22), and in accordance with section 3 (a) of the Administrative Procedure Act (60 Stat. 237; 5 U. S. C. 1001) the Statement of organization of the United States Department of Labor is hereby revised to read as follows:

Office of the Secretary—Organization and functions. The Secretary of Labor is primarily responsible for the formulation of governmental policy in all matters affecting labor. He serves on the following interdepartmental bodies:

Defense Mobilization Board (Executive Order 10200, 16 F. R. 61).

Interdepartmental Committee on Trade Agreements (Executive Order 10082, 14 F. R. 6105).

National Security Resources Board (Executive Order 9905. November 13, 1947, 3 CFR, 1947 Supp. 175, as amended by Executive Order 9931, February 19, 1948, 3 CFR, 1948 Supp. 100.

National Archives Council (57 Stat. 381; 44 U. S. C. 367).

Interdepartmental Publications Board (Executive Order 9568, June 8, 1945, 3 CFR, 1945 Supp. 77 as amended by Executive Order 9604, August 25, 1945, 3 CFR, 1945 Supp. 108).

Under the Foreign Service Act of 1946 (60 Stat. 999; 5 U. S. C. 681, 22 U. S. C. 801) he designates a representative of the Department to serve as a member of the Board of Foreign Service.

The Secretary of Labor has the ultimate responsibility for the administration of the Department of Labor under the Organic Act (37 Stat. 736; 5 U. S. C. 611) and various Reorganization Plans; one of which, Plan No. 6 of 1950, effective May 24, 1950 (15 F. R. 3174), transferred to the Secretary of Labor all functions of all other officers of the Department of Labor and all functions of all agencies and employees of the Department. In carrying out these functions he may authorize their performance by other officers, agencies or employees of the Department. He exercises his responsibility through his aides and assistants and has the duty of reporting annually to Congress on the Department's activities. He directs and supervises the work of the constituent bureaus, offices and divisions of the Department. In addition, he has functions under particular statutes, some of which are delegated to officials in the Department, as indicated.

Authorization of, and promulgation of regulations with respect to, the making of special studies by the Bureau of Labor Statistics for private persons (48 Stat. 582; 29 U. S. C. 9, 9a, 9b).

The Secretary of Labor has delegated to the Commissioner of the Bureau of Labor Statistics all functions in connection with collecting, collating, reporting, and publishing labor statistics and statistical studies (37 Stat. 737, 46 Stat. 1019; 29 U. S. C. 2 and 54 Stat. 249; 29 U. S. C. 2b), and the maintenance of a file of collective bargaining agreements under section 211 of the Labor Management Relations Act of 1947 (61 Stat. 156; 29 U. S. C. 181).

Predetermination of prevailing wage rates for laborers and mechanics in the performance of construction contracts which are subject to provisions of the following statutes: The Davis-Bacon Act as amended (46 Stat. 1494; 40 U. S. C. 276a); the National Housing Act as amended (48 Stat. 1246; 12 U. S. C. 1715c); the Federal Airport Act, as amended (60 Stat. 170; 49 U. S. C. Supp. III, 1114 (b)); the Hospital Survey and Construction Act of 1946, as amended (60 Stat. 1040; 42 U. S. C. Supp. III, 291h); the Housing Act of 1949 (63 Stat. 419; 42 U. S. C. Supp. III, 1459), the Housing Act of 1950 (64 Stat. 48; 42 U. S. C. 1521); the School Survey and Construction Act of 1950 (64 Stat. 967, 972; 20 U. S. C. A. 275 (b) (E)) and the determination of prevailing rates of wages in such disputes arising under section 3 of the Tennessee Valley Authority Act, as amended (48 Stat. 59; 16 U. S. C. A. 831 (b)).

The functions of the Secretary of Labor under these statutes are delegated to a designated Assistant Secretary of Labor and to the Solicitor of Labor severally. Concurrence by the Secretary of Labor is required in determination of prevailing wages by the Secretary of Interior in event of dispute as to wage rates under section 15 of Boulder Canyon Project Adjustment Act (54 Stat. 779, as amended; 43 U. S. C. sec. 618n).

By Reorganization Plan No. 14 of 1950, effective May 24, 1950 (15 F. R. 3176) the Secretary is authorized to prescribe appropriate standards, regulations, and procedures which shall be observed by agencies performing contracts within the coverage of the Davis-Bacon Act, the National Housing Act, as amended (48 Stat. 1246; 53 Stat. 807; 12 U. S. C. 1715 (c)), the Housing Act of 1949, the Federal Airport Act, the Hospital Survey and Construction Act, the School Survey and Construction Act, the "Copeland Anti-Kickback Act" (48 Stat. 948, as amended; 63 Stat. 89, 108, 18 U. S. C. Supp. III, 874, 40 U. S. C. 276 (b), 276 (c)), the Eight-Hour Laws, as amended (27 Stat. 340; 37 Stat. 137; 40 U. S. C. 321); in addition, the Secretary of Labor is authorized by this reorganization plan to make investigations with respect to compliance with and enforcement of such labor standards.

Administration of the "Copeland Anti-Kickback Act", as amended (Reorganization Plan No. 4, effective June 30, 1940, 54 Stat. 1236, 5 U. S. C. 133t note; Reorganization Plan No. 14, effective May 24, 1950; 15 F. R. 3176). Administrative and interpretative functions under this act are delegated to the Solicitor of Labor.

Interpretation of the Eight-Hour Law as amended (Reorganization Plan No. 14, effective May 24, 1950 (15 F. R. 5176)) upon the request of interested parties and agencies. This function is delegated to the Solicitor of Labor.

Passing upon the issuance of certificates of merit requested by national organizations of railway employees to enable them to present their claim concerning their right to participate in selection of labor members to the National Railroad Adjustment Board under section 3 First (f) of the Railway Labor Act as amended (44 Stat. 578; 48 Stat. 1189; 45 U. S. C. 153 First (f).

Administration and enforcement of the Walsh-Healey Public Contracts Act as amended (49 Stat. 2036; 41 U. S. C. 35). This act is administered by the Secretary through the Administrator of the Wage and Hour and Public Contracts Divisions. Certain final authority under the act, including promulgation of regulations, granting of exemptions, issuance of complaints, and making determinations as to the application of the ineligibility list provisions under section 3 of the act is exercised directly by the Secretary.

Administration and enforcement of the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, 63 Stat. 910; 29 U. S. C. 201 and Supp. IV, Reorganization Plan No. 6, effective May 24, 1950; 15 F. R. 3174).

Most of the administrative functions under the Fair Labor Standards Act have been delegated to the Administrator of the Wage and Hour and Public Contracts Divisions including issuance of rulings and interpretations on the advice of the Solicitor of Labor. Some functions with relation to the child labor provisions of the act have been delegated to the Director of the Bureau of Labor Standards.

The functions of issuing regulations and orders under section 3 (l) of the Fair Labor Standards Act, bringing legal proceedings under the act, the submission to Congress of the Annual Report required by section 4 (d) of the act and of recommending to the Attorney General in criminal actions are exercised directly by the Secretary. The rules of the Secretary of Labor issued pursuant to section 3 (l) of the act are set forth in 29 CFR, Parts 401, 402, 422 and 441.

Administration of the provisions of the "Wagner-Peyser Act" as amended and supplemented (48 Stat. 113; 60 Stat. 684; 62 Stat. 445; 29 U. S. C. 49) establishing a Federal-State system of public employment offices, title IV of the Servicemen's Readjustment Act, as amended (58 Stat. 293; 38 U. S. C. 695), which established a Veterans' Employment Service, and the Federal functions of the Federal-State unemployment insurance system as provided in the Social Security Act as amended (49 Stat. 620, 626; 42 U. S. C. 501 et seq.; 60 Stat. 982; 42 U. S. C. 1331 et seq.) and the Federal Unemployment Tax Act, as amended (53 Stat. 183; 26 U. S. C. 1600 et seq.), by virtue of Reorganization Plan 2 of 1949 (63 Stat. 1065).

Administration and enforcement of these acts has been delegated to the Director of the Bureau of Employment Security under the general direction and control of the Secretary.

Performing, through the Bureau of Veterans' Reemployment Rights, the function of rendering aid in the replacement in their former positions and in connection with the exercise of reemployment rights of veterans under section 8 of the Selective Training and Service Act of 1940, as amended (54 Stat. 890, 50 U. S. C. App. 308), the Service Extension Act of 1941, as amended (55 Stat. 626; 50 U. S. C. App.

351 et seq.), the Army Reserve and Retired Personnel Service Law of 1940, as amended (54 Stat. 858; 50 U. S. C. App. 401), the Selective Service Act of 1948, as amended (62 Stat. 604; 50 U. S. C. App. Supp. III 451 as amended) and under the act of June 23, 1943 (57 Stat. 162; 50 U. S. C. App. 1472) of persons who performed service in the Merchant Marine. The function of furnishing legal interpretations concerning veteran's reemployment rights and legal advice and services has been delegated to the Solicitor of Labor.

Administration, through the Bureau of Apprenticeship, of the act, August 16, 1937, as amended (50 Stat. 664, 50 U. S. C. App. sec. 601; 29 U. S. C. 50).

Disposition of Tort claims up to $1,000 against the Department of Labor pursuant to the provisions of the Federal Tort Claims Act (60 Stat. 842; 28 U. S. C. 921). The Secretary's function under this act has been delegated to the Solicitor of Labor.

Provides, through the Division for the Physically Handicapped in the Bureau of Labor Standards facilities and services to the President's Committee on National Employ the Physically Handicapped Week which week was established by Congress to promote nationwide interest and to secure and maintain cooperation of all groups in the rehabilitation and employment of physically handicapped workers.

Exercising and performing the authority and functions regarding the filing of information by labor unions conferred by sections 9 (f) and (g), Title I, of the Labor-Management Relations Act, as amended (61 Stat. 136, 145, 146, 29 U. S. C. Supp. IV, 141, 159 (f) and (g)). These functions are performed in the Division of Union Registration, the Bureau of Labor Standards.

Exercising and performing the functions of the Department of Labor in connection with the International Labor Organization and other international labor matters. The international activities of the Department are supervised and coordinated under the general direction of an Assistant Secretary of Labor and by the Office of International Labor Affairs.

Exercises and performs the functions of the Veterans' Placement Service Board as provided by section 2 of the Reorganization Plan No. 2 of 1949 (63 Stat. 1085), and under Title IV of the Servicemen's Readjustment Act of 1944.

Administration, through the Women's Bureau of the act of June 5, 1920 (41 Stat. 987; 29 U. S. C. 11).

Administration of the Federal Employees' Compensation Act, as amended and extended (39 Stat. 742, 5 U. S. C. 751 et seq.). Longshoremen's and Harbor Workers' Compensation Act as amended (44 Stat. 1424; 33 U. S. C. 901 et seq.); the District of Columbia Workmen's Compensation Law, as amended (45 Stat. 600; 36 D. C. Code 36–501, 502); the act of August 16, 1941, as amended, the so-called Defense Bases Act (55 Stat. 622; 42 U. S. C. 1651); act of December 2, 1942 (56 Stat. 1028; 42 U. S. C. 1701) and certain parts of the War Claims Act of 1948 (62 Stat. 1240; 50 U. S. C., Supp. III, app. 2001); and the Civilian War Benefits Program (60 Stat. 696); by virtue of Reorganization Plan No. 19 of 1950, effective May 24, 1950 (63 Stat. 203).

Except for the functions and duties of the Secretary created by section 41 of the Longshoremen's and Harbor Workers' Compensation Act, as amended, and section 209 of the Federal Employees' Compensation Act Amendments of 1949 and the preparation and submission of reports and recommendations to Congress, the Secretary of Labor has delegated the administrative functions under these acts to the Director, Bureau of Employees' Compensation and the Employees' Compensation Appeals Board. The functions and duties relating to safety investigations, recommendations to employers, and the developing, supporting and fostering of organized safety promotion authorized under section 41 of the Longshoremen's and Harbor Workers Compensation Act and under section 33 (b) and (c) of the Federal Employees' Compensation Act have been delegated to the Director of the Bureau of Labor Standards.

The Federal Safety Council, established in the Department of Labor by Executive Order 10194 (3 CFR 156), advises the Secretary of Labor in the performance of his functions under section 209 of the Federal Employees' Compensation Act Amendments of 1949.

Exercises authority delegated in Executive Order 10161 (3 CFR 123) issued pursuant to the Defense Production Act of 1950 (50 U. S. C. A., App. 2061), to provide for the maximum utilization of the functions and services of the Department in meeting the labor needs of defense industry and essential civilian employment.

To carry out these functions the Secretary has established within the Office of the Secretary, a Defense Manpower Administration and two committees. The Interdepartmental Committee on Defense Manpower, composed of the heads of Departments and agencies of the Government (or their duly authorized representatives) having an interest in the field of defense manpower and labor supply was created to advise the Secretary of Labor in carrying out his functions under Executive Order 10161. The Women's Advisory Committee on Defense Manpower, to be selected by the Secretary of Labor, was created to advise him concerning the most effective use of women in meeting defense manpower requirements. To aid in carrying out the manpower work of the Department of Labor, the Secretary has also delegated certain functions to various bureaus and officials of the Department.

Under Secretary of Labor. The Under Secretary of Labor performs such functions as may be prescribed by the Secretary or required by law. He is authorized by statute to perform the duties of the Secretary in his absence or, in the case of the Secretary's death, resignation or removal, to perform the duties of Secretary, until a successor is appointed (60 Stat. 91; 5 U. S. C. 611 (a)).

Assistant Secretaries. Three Assistant Secretaries of Labor of equal rank are provided by statute to perform such duties as the Secretary may assign or as may be required by law (60 Stat. 91; 5 U. S. C. 611 (b)).

Administrative Assistant Secretary. One Administrative Assistant Secretary of Labor is provided by section 3 of Reorganization Plan No. 6 of 1950, effective May 24, 1950 (15 F. R. 3174) to perform such duties as the Secretary of Labor shall prescribe.

Special Assistants. Special Assistants in the immediate office of the Secretary are available for special or confidential assignments by the Secretary of Labor, Under Secretary, or the Assistant Secretaries.

Offices within the Office of the Secretary. Within the Office of the Secretary are the Defense Manpower Administration; the Office of International Labor Affairs; the Office of Budget and Management; the Office of Personnel Administration; the Office of Information; the Office of the Solicitor and the Library.

Office of International Labor Affairs. This office, under the Executive Director is responsible for supervision, direction, policy formulations, and coordination of the international activities of the Department and of its bureaus.

Office of Budget and Management. Under the Director of the Office of Budget and Management this office supervises all business management functions of the Department.

Office of Personnel Administration. This office under the Director of Personnel, supervises all matters of personnel management within the Department.

Defense Manpower Administration. Headed by an Administrator and subject to the policy guidance and control of the Secretary of Labor, develops and reviews plans, policies and programs in cooperation with the various bureaus and offices of the Department for the purpose of meeting the labor needs of defense industry and essential civilian employment, and coordinates the defense manpower activities in the Department to provide for the maximum utilization of the functions and services of the Department of Labor in carrying out its manpower work. Regional offices of the Defense Manpower Administration are maintained at the same address as the Regional Offices of the Bureau of Employment Security.

Office of Information. This office under the Director of Information is responsible for the dissemination of information concerning the activities of the Department of Labor.

Library. The Librarian is responsible for the effective organization and administration of the Library services of the Department of Labor. The Library consists of three divisions designated as the Readers' Services Unit, the Periodicals Unit and the Cataloguing Unit.

Field Organization of the Department of Labor. Certain functions of the Department are carried on in Regional and Territorial Offices of the Department and the areas served by each are as follows:

Region	Headquarters office	Area served
1	Boston, Mass.	Massachusetts, New Hampshire, Maine, Vermont, Rhode Island, Connecticut.
2	New York, N. Y.	New York, New Jersey.
3	Philadelphia, Pa.	Pennsylvania, Delaware, Maryland.
4	Atlanta, Ga.	Georgia, Florida, South Carolina, North Carolina, Alabama, Mississippi, Tennessee, Virginia.
5	Cleveland, Ohio.	Michigan, Ohio, Kentucky West Virginia.
6	Chicago, Ill.	Illinois, Wisconsin, Indiana, Minnesota.
7	Kansas City, Mo.	North Dakota, South Dakota, Kansas, Iowa, Missouri, Nebraska, Wyoming, Colorado.
8	Dallas, Tex.	Texas, Arkansas, Oklahoma, New Mexico, Louisiana.
9	San Francisco, Calif.	California, Washington, Oregon, Idaho, Nevada, Utah, Arizona, Montana, Hawaii, Alaska.

Specific locations of the Regional and Territorial Offices of the various Bureaus of the Department are set out in connection with the description of the several field organizations of these operational units.

The position of Territorial Representative has been established in order to carry out the purposes and policies of the Department in the Territories of the United States, and to coordinate the activities of the field staffs of bureaus of the Department in such Territories. Territorial Representatives have been appointed for Alaska, Hawaii, and Puerto Rico, and the Virgin Islands. These are located at the following addresses:

Alaska: 129 Territorial Post Office Building, Juneau, Alaska.

Hawaii: 345 Federal Building, King and Richards Streets, Honolulu 2, T. H.

Puerto Rico and the Virgin Islands: 412 New York Department Store Building, Stop 16½ Ponce de Leon Avenue, Santurce 29, P. R.

Information and requests. Requests for general information concerning the activities of the Department should be addressed to the Director of Information, United States Department of Labor, Washington 25, D. C.

Requests for a determination as to the merit of a claim by a national organization of railway employees to participate in selections of members of the National Railroad Adjustment Board should be addressed to the Secretary of Labor, United States Department of Labor, Washington 25, D. C.

Information as to the officer to whom, and the manner in which, other requests for information, applications, petitions, etc., should be made is set forth in connection with the description of the functions of the individual bureaus, divisions and other operating units within the Department.

Office of the Solicitor—Functions. The Solicitor is the chief law officer of the Department. In this capacity he serves as legal adviser to the Secretary of Labor and to other administrative officers of the Department, performs certain functions of the Secretary of Labor as delegated to him, interprets statutes administered in the Department and furnishes legal services in connection with hearings and other administrative proceedings leading to the formulation of rules and regulations implementing such statutes, supervises the litigation of the Department; prepares reports on proposed legislation of concern to the Department and gives technical assistance in the preparation and development of legislation concerning labor matters; prepares or reviews all legal documents, contracts and bonds entered into by or with the Department of Labor and renders such other legal services as may be required of his office.

Organization. The Solicitor is assisted by an Associate Solicitor who participates in policy and administrative matters, and acts as Solicitor in his absence, and by Assistant Solicitors who assist him in matters of administration and policy. Each Assistant Solicitor is in charge of a Division of the Office of the Solicitor. The Divisions carrying out the functions of the Solicitor are as follows:

Division of Trial Litigation. This division supervises trial litigation in cases with which the Department is concerned.

Division of Appellate Litigation. This division prepares briefs and arguments in cases before appellate courts with which the Department is concerned.

Division of Interpretations and Administrative Services. This division consists of two branches. The Branch of Interpretations prepares opinions on interpretative questions arising under the statutes and Executive Orders administered in the Department, while the Branch of Administrative Services furnishes legal advice and service to departmental officials on the issuance of regulations and in administrative proceedings.

Division of Legislation, Bureau Services and Trial Examining. The two branches in this division perform the following functions:

The Branch of Legislation and Bureau Services renders advisory and technical assistance in the preparation of proposed legislation, gives legal assistance to the Bureau heads with their administrative problems within the department and answers inquiries from the public with respect to labor laws not administered in the Department but with which the Department is concerned. This branch also handles claims against the department arising under the Federal Tort Claims Act (60 Stat. 842; 28 U. S. C. 921).

The Branch of Trial Examining consists of trail examiners who, at the designation and direction of the Secretary of Labor in specific cases, preside over administrative hearings and make initial decisions, in accordance with the rules of practice set forth in 41 CFR, Part 203, in proceedings based on complaints of violations of contracts subject to the Walsh-Healey Public Contracts Act, as amended (49 Stat. 2036; 41 U. S. C. 35). In the performance of these functions they act independently, subject to the requirements that they comply with the policies of the Department under the act and with the recognized precedents.

The examiners also preside as hearing officers in other types of hearings authorized by the Secretary or other officials in the Department.

Division of Employees' Compensation. This division provides legal assistance and advice to the Bureau of Employees' Compensation and the Employees' Compensation Appeals Board relative to their functions. It also renders legal assistance in defense of compensation orders, issued by deputy commissioners of the Bureau of Employees' Compensation, where they are challenged in judicial proceedings.

Division of Employees' Security. This division provides (a) legal services in connection with the defense manpower activities of the Department of Labor, (b) legal services required by the Bureau of Employment Security, in (i) the administration of the Federal Unemployment Tax Act, the unemployment compensation provisions of the Social Security Act, the Wagner-Peyser Act of 1933, as amended, including supplementary legislation in appropriation acts relating to the United States Employment Service and Title IV of the Servicemen's Readjustment Act of 1944, the drafting, interpretation and operation of international agreements for the importation of foreign workers for temporary agricultural employment in the United States; and (ii) assistance to State agencies in the operation of the State-Federal unemployment compensation program.

Division of Wage Determination and Veterans' Reemployment Rights. The two branches in this division perform the following functions:

Pursuant to authority delegated by the Secretary to the Solicitor the Wage Determination Branch performs administrative functions under the "Copeland Anti-Kickback Act" and the Federal Eight-Hour Laws and is responsible for the wage determination work arising in the Department under the Davis-Bacon Act, the National Housing Act, the Tennessee Valley Authority Act, the Hospital Survey and Construction Act, the United States Housing Act of 1937, the Housing Act of 1949, the Housing Act of 1950, the School Survey and Construction Act of 1950, and the Federal Airport Act.

The Veterans' Reemployment Rights Branch renders legal advice to and performs the legal services required by the Bureau of Veterans' Reemployment Rights.

Division of International Labor Affairs. This Division renders legal advice, interpretations, and assistance in all matters pertaining to the international work of the Department. This includes legal advice relating to all of the activities of the Office of International Labor Affairs. These activities relate to Conventions, Recommendations, and other activities of the International Labor Organization; numerous activities pertaining to the United Nations and various specialized agencies relating to labor of that Organization, and a variety of international labor activities of the Department.

Regional Offices. Regional attorneys under the supervision of the Solicitor, act as legal advisers to the field organi-

zation of the Regional Offices of the Department of Labor. The Regional Attorneys' staffs prepare, try or assist in the trial of cases in which the Department is involved; provide legal services in connection with administrative proceedings and prepare opinions on interpretative questions arising under statutes and Executive Orders administered by the Department. The Regional Offices of the Office of the Solicitor are as follows:

Regional office	Address	Area served
Boston, Mass.	18 Oliver St., Boston 8, Mass.	Maine, New Hampshire, Vermont, Rhode Island, Massachusetts, Connecticut.
New York, N. Y.	341 9th Ave., New York 1, N. Y.	New York, New Jersey.
Philadelphia, Pa.	808 Lafayette Bldg., 5th and Chestnut Sts., Philadelphia 6, Pa.	Pennsylvania, Delaware, Maryland.
Birmingham, Ala.	1908 Comer Bldg., 2026 2d Ave. North, Birmingham 3, Ala.	Georgia, Florida, South Carolina, North Carolina, Alabama, Mississippi.
Cleveland, Ohio	706 Perry Payne Bldg., 740 Superior Ave. Northwest, Cleveland 13, Ohio.	Michigan, Ohio.
Chicago, Ill.	1200 Merchandise Mart, 222 West North Bank Drive 54, Chicago, Ill.	Illinois, Wisconsin, Indiana, Minnesota.
Kansas City, Mo.	3000 Fidelity Bldg., 911 Walnut St., Kansas City 6, Mo.	North Dakota, South Dakota, Kansas, Iowa, Missouri, Nebraska, Wyoming, Colorado.
Dallas, Tex.	1000 Main St., Room 222, Fidelity Bldg., Dallas 2, Tex.	Texas, Arkansas, Oklahoma, New Mexico, Louisiana.
San Francisco, Calif.	144 Federal Office Bldg., Fulton and Leavenworth Sts., San Francisco 2, Calif.	California, Washington, Oregon, Idaho, Nevada, Utah, Arizona, Montana, Hawaii, Alaska.
Nashville, Tenn.	150 9th Ave. North, Nashville, Tenn.	Virginia, West Virginia, Tennessee, Kentucky.
San Juan, P. R.	412 New York Dept. Store Bldg., Stop 16½ Ponce de Leon Ave., P. O. Box 3906, Santurce 29, P. R.	Puerto Rico, Virgin Islands.

Bureau of Apprenticeship. The Bureau of Apprenticeship functions pursuant to the act of August 16, 1937 (50 Stat. 664, 29 U. S. C. 50) by virtue of which the Secretary of Labor is authorized and directed by law to formulate and promote the extension of labor standards necessary to safeguard the welfare of apprentices.

The Bureau consists of the following units:

Office of the Director. The Director is responsible, subject to the direction and supervision of the Secretary of Labor, for the application of national policies with respect to apprenticeship through direction of the headquarters and field organization of the agency; the encouragement of the State apprenticeship activities and the maintenance of liaison with established State agencies and with national organizations interested in apprenticeship. The Director is also responsible, in cooperation with the Defense Manpower Administration and other bureaus of the Department, for functions in connection with training programs designed to improve the skills and utilization of workers on the job, including apprentices, in defense and essential civilian industry and in identifying training needs for defense activities.

Division of Research and Review serves as a clearing house for the national apprenticeship program. Its duties include the review of apprenticeship plans with respect to conformance with standards recommended by the Bureau, the registration of apprenticeship programs the compilation of statistics, and the publication of information relating to the program and research in matters affecting the training of apprentices.

The Division of Field Operations directs the field activities of the Bureau through regional offices. Twelve regional supervisors exercise general supervision over the activities in the several regions. The regional offices coordinate the activities of the area and local offices. The function of the area offices is to coordinate the activities of the Bureau with State apprenticeship councils, where they exist, and supervise the activities of the local offices. There is at least one area office in each State. The field men, in local offices, contact local employers of skilled labor in regard to the initiation of approved training programs and assist in the operation of such programs.

National organization. To assist the Director of the Bureau of Apprenticeship, the Secretary of Labor appointed a Federal Committee on Apprenticeship composed of representatives of management, labor and interested Government agencies to develop Nation-wide standards and policies for apprenticeship training and the General Committee on Apprenticeship in the Construction Industry, which takes an active part in encouraging the adoption of standards by the industry.

Regional offices are located as follows:

Regional office	Address	Area served
Boston, Mass.	Room 501, 18 Oliver St., Boston 10, Mass.	Massachusetts, New Hampshire, Maine, Vermont, Rhode Island, Connecticut.
New York, N. Y.	Room 1318, 270 Broadway, New York 7, N. Y.	New York, New Jersey.
Philadelphia, Pa.	801 Lafayette Bldg., 5th and Chestnut Sts., Philadelphia 7, Pa.	Pennsylvania, Delaware.
Richmond, Va.	101 5th St., Richmond, Va.	Virginia, West Virginia, Maryland, North Carolina, District of Columbia.
Cleveland, Ohio	506 Ninth-Chester Bldg., Cleveland 14, Ohio.	Michigan, Ohio, Kentucky.
Chicago, Ill.	Room 404, 226 West Jackson Blvd., Chicago 6, Ill.	Illinois, Indiana, Wisconsin.
Atlanta, Ga.	Room 657, Peachtree 7th Bldg., 50 7th St., Atlanta 3, Ga.	Georgia, Florida, South Carolina, Alabama, Mississippi, Tennessee.
Minneapolis, Minn.	410 Pence Bldg., 730 Hennepin Ave., Minneapolis 3, Minn.	Minnesota, Montana, North Dakota, South Dakota.
Kansas City, Mo.	1509 Federal Office Bldg., 911 Walnut St., Kansas City 6, Mo.	Missouri, Kansas, Iowa, Nebraska.
Dallas, Tex.	Room 520, Fidelity Bldg., Dallas 2, Tex.	Louisiana, Texas, Arkansas, Oklahoma.
Denver, Colo.	530 New Customhouse, 19th and Stout St., Denver 2, Colo.	Colorado, Utah, Wyoming, New Mexico.
San Francisco, Calif.	552 Federal Office Bldg., San Francisco 2, Calif.	California, Arizona, Nevada.
Seattle, Wash.	1116 American Bldg., 920 2d Ave. and Madison St., Seattle 4, Wash.	Idaho, Oregon, Washington.
Hawaii	343 Federal Building, Honolulu 2, T. H.	
Alaska	P. O. Box 1719, Juneau, Alaska.	

Information and applications. The Bureau does not directly engage in the training or placement of apprentices. It seeks only to advise labor and management on the basic standards of apprenticeship and apprenticeship agreements and on how to put such agreements into operation.

Employers or labor organizations should address inquiries as to the establishment of a program for apprenticeship to the Director, Bureau of Apprenticeship, United States Department of Labor, Washington 25, D. C., or to the regional office serving the area.

Applications for employment as an apprentice should be made at the local office, State employment service, or to an employer or to a local labor organization in the trade.

Bureau of Employment Security—Functions. The Bureau of Employment Security was transferred from the Federal Security Agency to the Department of Labor by Reorganization Plan No. 2 of 1949, effective August 19, 1949. This Bureau is responsible for administering the provisions of the Wagner-Peyser Act of 1933 establishing a Federal-State system of public employment offices, title IV of the Servicemen's Readjustment Act establishing a Veterans Employment Service, and the Federal functions of the Federal-State unemployment insurance system as provided in the Social Security Act and the Federal Unemployment Tax Act. With respect to the Defense Manpower program, the Bureau is also responsible for formulating plans, programs and policies relating to the recruitment, expansion and utilization of the labor force for defense and essential civilian industry and, in cooperation with the Bureau of Apprenticeship, for identifying training needs for defense activities.

The Bureau is advised by the Federal Advisory Council for Employment Security, representing management, labor and the public, in formulating its overall program, and by the Special Farm Labor Committee in carrying out its farm labor placement program.

The Secretary of Labor has designated a representative of the Bureau as Chairman of this committee when considering questions of critical occupations. Another Bureau representative has been designated Executive Secretary. The Committee is responsible for maintaining a current list of essential activities and critical occupations based on specific criteria which relates to foreseeable plans for defense mobilization and minimum requirements of the civilian economy. The purpose of the lists is to serve as a guide for the equitable distribution of manpower between the

armed services and that required to assure production essential to the defense effort and the civilian economy. The lists are used by the Department of Defense in taking action on requests for delay in call to active duty of Reservists and the National Guard. The Selective Service System furnishes copies of the lists to its local boards as information to assist them in making determinations on requests for the occupational deferment of draft registrants. The Committee studies and makes recommendations to the Secretary of Commerce and the Secretary of Labor on petitions presented by employers, employer and trade associations, and union representatives for revisions and amendments to the lists.

National organization. The Bureau is headed by a Director, assisted by a Deputy Director. Its functions are carried out through the following units:

1. *Unemployment Insurance Service.* The Unemployment Insurance Service is headed by an Assistant Director and consists of four divisions: Program Standards, Methods and Operations, Legislation and Reference, and Appeals and Interpretations.

(a) *Division of Program Standards.* The Division of Program Standards is headed by a Chief, and has the following functions: Development of substantive policy regarding unemployment insurance benefits, coverage, financing and coordination of temporary disability with unemployment insurance; analysis of experience under the unemployment insurance program to evaluate adequacy of the program; study of the social, financial and economic aspects of unemployment insurance; analysis of Federal legislative proposals and development of recommendations for Federal legislation; establishment of the need for unemployment insurance data for program planning; assistance to the States in conducting special research and statistical studies.

(b) *Division of Methods and Operations.* The Division of Methods and Operations is headed by a Chief and has the following functions: Development of principles and guides applicable to the operation of State unemployment insurance programs; review and appraisal of the administration of State programs from the standpoint of conformity with Federal requirements and eligibility for grants and for certification for tax credits; determination of standards of adequacy for the performance of all basic State unemployment insurance operations, and also of the necessary cost of performing each function under such standards for use in the functional budgeting process; and assistance to States in improving operating methods.

(c) *Division of Legislation and Reference.* The Division of Legislation and Reference is headed by a Chief and has the following functions: Development of principles and guides applicable to the legislative aspects of State unemployment insurance programs; review and appraisal of State laws from the standpoint of conformity with Federal requirements and eligibility for grants and for certification for tax credits; assistance to States in improving State laws; development of recommendations for Federal legislation; and maintenance of a reference service of State laws, procedural materials, forms, etc.

(d) *Division of Appeals and Interpretations.* The Division of Appeals and Interpretations is headed by a Chief and has the following functions: Development of principles and guides applicable to the interpretative aspects of State unemployment insurance programs; review and appraisal of State interpretations from the standpoint of conformity with Federal requirements and eligibility for grants and for certification for tax credits; review and appraisal of State appeals practice and procedures from the standpoint of conformity with Federal requirements; review and appraisal, for conformity with Federal requirements, of State processes of determining benefit eligibility and disqualification; assistance to States in the quality of these determinations; assistance to States in improving appeals procedures; and preparation of analyses and publication of decisions showing trends in appealed decision on coverage and benefit payments.

2. *United States Employment Service.* The Director of the Bureau of Employment Security is also the Director of the United States Employment Service. The functions of the United States Employment Service and its relationships with the State Employment Service are carried on through the Employment Service which is headed by an Assistant Director. Its functions are carried out through the Division of Placement Methods, the Division of Counseling, Selective Placement and Testing, the Division of Industrial Services, the Division of Employer Relations, the Division of Organization and Management, and a Minority Groups Consultant.

(1) *Division of Placement Methods.* The Division of Placement Methods is headed by a Chief and is responsible for the development of programs, recommended policies, standards, operating methods and procedures for use by State and local offices, and for providing assistance to State agencies in cooperation with the regional offices in three basic program areas: (i) The Placement Standards Program, which is concerned with the performance of all local office placement operations, related State office activities, and the development of operating relationships with other agencies engaged in placement activities; (ii) the Occupational Analysis Program, which includes the collection and preparation of occupational source data in maintaining the Dictionary of Occupational Titles and republishing as necessary and in preparing job descriptions and other job information materials for use in facilitating local office operations; (iii) the Staff Development Program, which is concerned with the development of programs and materials for in-service training of the national and regional offices, as well as the 37,000 State and local office employees.

(2) *Division of Counseling, Selective Placement and Testing.* The Division of Counseling, Selective Placement and Testing is headed by a chief. It has the following functions: Development and maintenance of policies, standards, methods, procedures, and technical aids to assist State employment services in their counseling and selective placement programs for veterans, youth entering the labor market, physically handicapped, aging workers, and other groups requiring vocational adjustment; provision of assistance in training State counseling staff in use of specialized techniques; working with other governmental, private and professional organizations and agencies offering related services to the groups mentioned above; development and analysis of occupational testing techniques and materials; coordinating the collection and analysis of data by State agencies for use in developing national test batteries and forms; evaluation of testing program in the field; provision of consultative services to representatives of industry and Government agencies in the use of tests and other counseling and selective placement techniques.

(3) *Division of Industrial Services.* The Division of Industrial Services is headed by a Chief and carries out the Bureau's responsibilities in the over-all manpower use and productivity program of the Government, including the development of techniques and methods of assisting employers through the application and use of employment service tools and techniques to obtain maximum use of manpower in defense-connected activities and participation in departmental and intergovernmental committees dealing with the over-all problem.

(4) *Division of Employer Relations.* The Division of Employer Relations is headed by a Chief and is responsible for the development of programs, recommending policies, standards, operating methods and procedures for use by State and local offices, and for providing assistance to State agencies in cooperation with the regional offices, in two basic program areas: (i) The Employer Program, which is concerned with the development of planned employer contact programs for local offices and encouraging full use of local office resources in contacting the major market (services and facilities); (ii) the Labor Clearance Program, which is concerned with the maintenance of a nation-wide system for clearing labor between the several States. In addition, the Division is responsible for the Industry Relations Program which is concerned with: (a) The development of effective working relations with major employer associations and employers having interstate coverage, labor organizations, Government agencies, and related groups to acquaint such organizations and employers with the resources and facilities available through the Public Employment Service, (b) the development of comprehensive programs with these groups so as to increase the effectiveness of the types of services available in various communities, (c) gaining the understanding and support of industry groups of defense manpower policies and Employment Service programs, (d) keeping the Bureau informed of industry problems which have a bearing on manpower needs, and (e) expanding operating relations with the various Govern-

ment agencies concerned with manpower problems in the defense effort.

(5) *Division of Organization and Management.* The Division of Organization and Management is headed by a Chief, and is responsible for the development of programs, recommended policies, standards, operating methods and procedures for use by State and local offices and for providing assistance to State agencies in cooperation with the regional offices for the improvement of organization, management, and field supervision of local offices of the several State employment security agencies.

(6) *The Minority Groups Consultant* is attached to the Office of the Assistant Director for Employment Service and is responsible for the development of procedures, recommended policies, and technical aids to assist State employment services in maximizing employment opportunities for members of minority groups; promoting the principle of worker selection on the basis of occupational qualifications; representing the United States Employment Service with organizations concerned with the employment problems of members of minority groups.

3. *Divisions Directly Responsible to Director.* There are five divisions directly responsible to the Director of the Bureau.

(a) *Division of State Financing.* The Division of State Financing is headed by a Chief, and has the following functions: Development of principles and procedures with respect to expenditures of funds by State agencies for administrative purposes and assistance to States in applying such principles and procedures; in collaboration with the program divisions of the Bureau, the preparation of recommendations with respect to funds needed for administration of State employment security programs; development and application of principles and procedures for State merit systems; assistance to State agencies in developing and maintaining personal services functional time distribution systems; appraisal of State agency administration of the fiscal, business management and personnel aspects of their programs from the standpoint of eligibility for grants.

(b) *Division of Field Service.* The Division of Field Service consists of four field representatives, each of whom has been assigned a specific geographic territory. Under the direction of the Deputy Director of the Bureau, these field representatives operate in a liaison and coordinating capacity between field offices and the various divisions of the headquarters office. In carrying out this function, their work consists chiefly of rendering assistance in planning, reviewing, evaluating and coordinating all phases of the Bureau operations and programs.

(c) *Division of Reports and Analysis.* The Division of Reports and Analysis is headed by a Chief, and has the following functions: Provision of economic advisory services to Bureau and technical services to State agencies on reporting methods and programs, and analysis of economic, statistical, and operating data; in cooperation with program services, development and maintenance of a Nation-wide statistical reporting system covering both unemployment insurance and employment service programs; preparation of labor market studies and collection, analysis, and dissemination of area, industry, and occupational labor market information; preparation of analyses and provision of labor market data required by other agencies whose programs involve manpower considerations; compilation and analysis of activity reports and related administrative statistics to assist in evaluating and improving programs and operating methods; within established policy, development of plans, editorial work, and issuance of technical publications; representation for the Bureau on interagency matters involving statistical reporting and labor market analyses.

(d) *Division of Business Management.* The Division of Business Management is headed by a Chief, and has the following functions: Development of budget estimates and documents; allocation of funds and position ceilings; maintenance of accounting control of funds; preparation and auditing of payrolls; auditing and certification of vouchers for Bureau operations; maintenance of Bureau files and communications; provision of administrative and management services; auditing of all State expenditures of granted funds; maintaining Bureau of liaison with the Department of Labor Office of Personnel.

(e) *Farm Placement Service.* The Farm Placement Service is headed by a Chief. It has the following responsibilities: Maintaining through the State employment services a Farm Placement Service; providing technical assistance to State employment services in developing and maintaining programs for recruitment and movement of workers in agriculture and related industries; maintaining current analyses of State farm placement operating summaries and crop progress reports in order to determine areas of labor shortage and surplus, the status of farm labor requirements and the volume and direction of migratory labor movement; coordination of interstate movements of farm workers between areas of labor supply and demand; establishing and operating farm labor information stations for progressive direction of free moving labor toward areas of urgent demand correlative with the maturing of crops.

4. *Field Organization.* Each regional office of the Department of Labor includes a Regional Director for the Bureau of Employment Security. The Regional Director for the Bureau of Employment Security represents the Bureau on all matters involved in the Federal-State employment security relationship; assists State agencies in meeting Federal requirements, in establishing procedures and in other problems related to the program; reviews and appraises State agency budget requests and makes recommendations regarding amounts needed for State administration; and reports on State administration and programs.

The regional offices of the Bureau of Employment Security are as follows:

Location	Address	Area served
Boston, Mass.	18 Oliver St., Boston 10, Mass.	Connecticut, Maine, Massachusetts, Vermont, New Hampshire, Rhode Island.
New York, N. Y.	Room 2441, 11 West 42d St., New York 18, N. Y.	New York, New Jersey, Puerto Rico.
Philadelphia, Pa.	506 Lafayette Bldg., 5th and Chestnut Sts., Philadelphia, Pa.	Pennsylvania, Delaware.
Richmond, Va.	101-105 South 5th St., Richmond, Va.	District of Columbia, Maryland, North Carolina, Virginia, West Virginia.
Atlanta, Ga.	Room 653 50 7th St NE., Atlanta 5, Ga.	Alabama, Florida, Georgia, Mississippi, South Carolina, Tennessee.
Cleveland, Ohio.	Room 225, Ferguson Bldg., 1783 East 11th St., Cleveland 14, Ohio.	Kentucky, Michigan, Ohio.
Chicago, Ill.	Room 400, 226 West Jackson Blvd., Chicago 6, Ill.	Illinois, Indiana, Wisconsin.
Minneapolis, Minn.	Room 803, Pence Bldg., 730 Hennepin Ave., Minneapolis, Minn.	Minnesota, Montana, North Dakota, South Dakota.
Kansas City, Mo.	Room 1009, Fidelity Bldg., Kansas City 6, Mo.	Kansas, Missouri, Iowa, Nebraska.
Dallas, Tex.	Suite 1, Mezzanine Commercial Bldg., 1100 Main St., Dallas 2, Tex.	Arkansas, Oklahoma, Louisiana, Texas.
Denver, Colo.	438 Equitable Bldg., 730 17th St., Denver 2, Colo.	Colorado, New Mexico, Utah, Wyoming.
San Francisco, Calif.	Room 568, Federal Office Bldg., Civic Center, San Francisco 2, Calif.	Arizona, California, Nevada, Oregon, Idaho, Washington, Alaska, Hawaii.

Delegations of final authority. By delegation from the Secretary of Labor the Director of the Bureau of Employment Security has the following authorities in relation to employment security:

(a) Subject to applicable General Orders and Secretary's Instructions relating to personnel and business management, to serve as the administrative head of the Bureau of Employment Security in the administration of the provisions of the Wagner-Peyser Act of June 6, 1933, as amended (48 Stat. 113, 42 U. S. C. 1901–1918), the Social Security Act, as amended (49 Stat. 626, 42 U. S. C. 501–503), the Federal Unemployment Tax Act as amended (53 Stat. 183, 26 U. S. C. 1600–1611), the Railroad Unemployment Insurance Act as amended (52 Stat. 1094, 45 U. S. C. 351–367), and Title V of the Servicemen's Readjustment Act as amended (58 Stat. 284, 38 U. S. C. 695–695f).

(b) In relation to grants to States for the administration of the employment security program: (1) To determine purposes and amounts necessary, including with respect to expenditure of granted funds the issuance of fiscal standards and the determination as to whether such funds have been properly expended; (2) to certify such amounts to the Secretary of the Treasury for payment to the States (or under certain conditions for payment into the Railroad Unemployment Insurance Account); (3) to approve State plans for operation of public employment offices, except as final authority may be dele-

gated by the Director to the Regional Directors for the Bureau of Employment Security to approve such plans with respect to classification and compensation plans, salary and leave regulations, travel regulations, and procurement regulations: *Provided, however,* That questions of conformity with Federal requirements raised by such plans shall be determined by the Secretary of Labor and the Director shall approve or withhold approval in accordance with such determination; and (4) to enter into agreements with the Postmaster General concerning the transmission of official mail matter by State agencies.

(c) In the administration of the Veterans' Readjustment Allowance program: To certify to the Secretary of the Treasury for payment to the State amounts for administration as certified by the Veterans' Administration.

(d) To make policy recommendations to the States with respect to the unemployment insurance program.

(e) To establish standards of efficiency with respect to the operation of State public employment offices.

(f) In relation to reconversion unemployment benefits for seamen, to determine the amounts to be granted to the States.

(g) To issue standards for a merit system of personnel administration in the States.

5. *Information to public.* Information concerning employment security, including the Federal-State system of unemployment insurance and public employment offices, may be obtained by request in person or by letter at any of the regional offices or at the central offices of the Bureau of Employment Security, Department of Labor, Washington, D. C.

6. *Public inspection of final opinions, orders, and rules.* All final opinions or orders in the adjudication of cases and all rules relating to employment security are available for public inspection, except that the Secretary of Labor may hold any such opinions, or orders or parts thereof confidential for good cause. Opinions and orders not held confidential (or copies thereof) and all rules may be inspected at any of the regional offices or at the central office of the Bureau of Employment Security, Department of Labor, located at Washington, D. C. Requests to inspect at the central office must be submitted to the Director of the Bureau of Employment Security.

7. *Availability of official records.* The record of any hearings held by the Secretary of Labor, including transcripts of testimony, exhibits and all documents received in evidence or made part of the record of such hearing, are official records.

Official records are made available for inspection to persons properly and directly concerned upon written application to the Secretary of Labor, except that upon good cause found by the Secretary such records or parts thereof may be held confidential. Notice of denial of a request to inspect official records will be given promptly together with a statement of the reason for denial.

Veterans' Employment Service. The Veterans' employment Service is headed by a Chief. It assists in maintaining job counseling and employment placement services for veterans; interprets and carries out the policies of the Secretary of Labor with respect to veterans' placement; and supervises the carrying out of the functions assigned to the Veterans' employment Representatives in the States. Such supervision includes functional responsibility for the supervision of the registration and placement of veterans, assisting in securing and maintaining current information as to types of available employment, prompting employers' interest in employing veterans, maintaining contact with employers and veterans' organizations to keep employers advised of veterans available for employment and veterans advised of employment opportunities and improving working conditions and the advancement of employment of veterans.

The regional offices of the Veterans' Employment Service are as follows:

Regional Office	Address	Area served
Springfield, Mass	Rooms 407-408, 175 State St., Springfield, Mass.	Connecticut, Maine, Massachusetts, Vermont, New Hampshire, Rhode Island, New York
Baltimore, Md	Room 919 Butler Bldg., Baltimore 1, Md.	Delaware, New Jersey, Pennsylvania, District of Columbia, Maryland, Virginia, West Virginia, North Carolina.
Columbus, Ohio	427 Cleveland Ave., Columbus 16, Ohio.	Kentucky, Michigan, Ohio, Illinois, Indiana, Wisconsin
Jackson, Miss	319 North President St., P. O. Box 1287, Jackson, Miss.	Alabama, Florida, Mississippi, South Carolina, Tennessee, Louisiana, New Mexico, Texas
Jefferson City, Mo	Room 306, Post Office Bldg., P. O. Box 86, Jefferson City, Mo.	Iowa, Missouri, Minnesota, Nebraska, North Dakota, South Dakota, Arkansas, Kansas, Oklahoma
Reno, Nev	Room 15, Hughes-Porter Bldg., 232 West 1st St., P. O. Box 1786, Reno, Nev.	Colorado, Idaho, Montana, Utah, Wyoming, Arizona, California, Nevada, Oregon, Washington

Bureau of Labor Standards. The Bureau of Labor Standards, under the general supervision and direction of the Secretary of Labor, is composed of 7 divisions. The functions of the divisions are as follows:

Industrial Safety Standards. The Bureau assists in developing and promoting standards of industrial safety and health, and providing technical advice and service in that field to State labor departments, labor unions, and trade associations. It serves as headquarters and secretariat for the Federal Safety Council. It provides direct consultative safety service to employers and workers subject to the Federal Longshoremen's and Harborworkers' Compensation Act. The Bureau develops standards for hazardous occupations orders issued by the Secretary of Labor under the child-labor provisions of the Fair Labor Standards Act. Upon request, it assists in the preparation of State industrial safety codes; trains State safety personnel; publishes technical safety bulletins, and safety training material. Also on request, the Bureau cooperates with State labor departments in developing and promoting State-wide accident-prevention programs of a continuing nature, on either a general or a selected industry basis as determined by the States.

Division of Legislative Standards and State Services develops standards of good labor legislation and administrative practice, analyzes pending State labor legislation, prepares summaries of State and Federal labor laws for the use of Government agencies, industry and labor, and provides upon request, technical assistance to State labor departments in adopting approved standards for individual State use. The division services cooperative agreements with the States in such fields as wage and hour, safety and health, industrial homework and child-labor inspections, and the acceptance by States of the standards of the conventions and recommendations of the International Labor Organization.

Division of Child Labor and Youth Employment conducts research and serves as a center of information and advisory services on conditions and programs in a broad field of child labor and youth employment. It develops standards for child-labor regulations under the Fair Labor Standards Act and gives advisory service to States on issuance of age certificates accepted under section 3 (l) of the act.

Division for the Physically Handicapped provides facilities and services to the President's Committee on National Employ the Physically Handicapped Week and promotes public support for the employment of physically handicapped workers.

Division of Reports and Public Service develops and serves national, regional and State conferences essential to the working out of problems of cooperation between Federal and State agencies and the activities of the Bureau and has responsibility for staffing and servicing the President's Conference on Industrial Safety. The division edits and distributes Bureau publications and prepares exhibits and other visual aids on all phases of the Bureau's program.

Division of International Cooperation operates technical assistance programs in the field of labor standards financed by the Department of State, including training programs for representatives from foreign governments and sending expert consultants to other countries.

Division of Union Registration exercises the authority and performs the functions conferred upon the Secretary of Labor by sections 9 (f) and (g) Title I, Labor Management Relations Act, 1947 (61 Stat. 136; 29 U. S. C. 141) regarding the filing of organizational and financial informations by unions.

In addition, the Bureau participates in the manpower work of the Department. It participates in interdepartmental programs of cooperation with other countries for the raising of labor standards and the improvement of general working conditions.

National Organization. The Bureau is administered by a director and an associate director. It has no field organization.

Information and requests. All requests concerning the services, publications and exhibits of the Bureau should be addressed to the Director, Bureau of Labor Standards, United States Department of Labor, Washington 25, D. C.

Bureau of Labor Statistics. The Bureau of Labor Statistics is the Government's principal fact-finding agency in the field of labor economics, particularly with respect to the collection and analysis of data on employment and manpower developments, wages, productivity, industrial relations and accidents, price trends, and costs and standards of living.

Under the general direction and control of the Secretary of Labor, and headed by the Commissioner of Labor Statistics, it collects and publishes information in periodic reports and in the Monthly Labor Review (25 Stat. 182, 28 Stat. 805, 31 Stat. 155, 37 Stat. 737, 54 Stat. 249; 29 U. S. C. 1). The Bureau is authorized, under regulations prescribed by the Secretary of Labor, to make statistical studies on written request and payment of the cost thereof by the person requesting such services (48 Stat. 582; 29 U. S. C. 9).

National Organization. The Commissioner of Labor Statistics is responsible for the policies and the administration of the Bureau. He is assisted by the Deputy Commissioner and three Assistant Commissioners.

The Bureau's principal functions are allocated among the following divisions. Their functions are as follows:

The Division of Prices and Cost of Living conducts research in matters relating to prices of consumers' and industrial goods and services and rents, maintains the various price indexes issued by the Bureau and prepares special studies of family budgets, income, and consumption and expenditure habits. The staff renders technical assistance to State and local governments in matters relative to prices and costs of living and provides special price analyses for agencies of the Federal Government.

The Division of Manpower and Employment Statistics, in cooperation with State agencies, collects statistics on nonagricultural employment, payrolls, hours, and earnings, by industry, for the United States, States and major metropolitan areas, and labor turnover data for selected industries on a Nation-wide basis. It appraises the long-range employment outlook for workers in major industries and occupations; it studies the changing size and composition of the labor force and provides information on current and expected supply and demand for workers, especially in relation to requirements under conditions of national emergency.

The Division of Productivity and Technological Developments compiles annual indexes of productivity in a wide variety of industries and prepares reports containing detailed statistics on trends of direct and indirect labor, and information on the effect of labor, technological, and production factors on man-hour requirements and production of selected goods.

The Division of Industrial Relations publishes monthly and annual statistics on work stoppages, maintains a current file of collective bargaining agreements, and conducts research on matters relative to employer-employee relations, industrial disputes, contract provisions, union organization and membership, and similar matters.

The Division of Wage Statistics conducts surveys of occupational wage rates and supplementary wage practices by industry and locality, and of salaries and working conditions of selected professional workers, makes annual surveys of union wage scales in five selected industries, constructs indexes measuring long-term wage movements, collects information on current wage developments, and performs related wage research.

The Division of Construction Statistics estimates the number of new housing units started nationally and in certain local areas and makes special studies of housing characteristics, costs and selling prices. It issues figures on expenditures for new construction (in cooperation with the Department of Commerce), the value of Federal contract awards, total amount of urban building authorized by class of construction and dealer-to-contractor prices of building materials. Estimates are also made on labor requirements for various types of construction.

The Division of Interindustry Economics prepares information on the sales and purchases of products and services between various industry groups, and between them and other segments of the economy for use in estimating direct and indirect consequences of major economic changes; makes studies of requirements for manpower, industrial and agricultural resources, and productive plant at various levels of the economy.

The Division of Foreign Labor Conditions analyzes available data on labor conditions in other countries and assists the Department in its participation in work of international organizations in the Foreign labor field; it conducts the Bureau's program for the exchange of statistical specialists and for technical instruction and assistance to statisticians of other countries in the methods and techniques used by the Bureau.

The Branch of Industrial Hazards prepares statistics on work injuries and lost time due to accidents; does research on the causes of industrial accidents.

The Office of Labor Economics conducts special research in matters relating to broad problems of concern to American labor which does not fall within the scope of the individual divisions.

Field organization. The regional offices of the Bureau of Labor Statistics are as follows:

Location	Address	Area served
Boston, Mass.	261 Franklyn St., Boston 10, Mass.	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.
New York, N. Y.	1600 Parcel Post Bldg., 341 9th Ave., New York 1, N. Y.	Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania.
Atlanta, Ga.	50 7th St. NE., Room 664, Atlanta 5, Ga.	Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia.
Chicago, Ill.	312 National War Agencies Bldg., 226 West Jackson Blvd., Chicago 6, Ill.	Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, West Virginia, Wisconsin.
San Francisco, Calif.	1074 Federal Office Bldg., 70 Market St., San Francisco 2, Calif.	Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming.

Information and requests. Requests for general information concerning the work of the Bureau and its publications should be addressed to the Commissioner of Labor Statistics, United States Department of Labor, Washington 25, D. C. Requests for technical assistance of the Bureau in conducting special studies to be paid for by the party requesting the assistance should be addressed to the Secretary of Labor or the Commissioner of Labor Statistics, United States Department of Labor, Washington 25, D. C. No special form is required.

Bureau of Veterans' Reemployment Rights—Organization. The Bureau of Veterans' Reemployment Rights was created by the Secretary of Labor pursuant to authority under the act of March 31, 1947 (61 Stat. 31; 50 U. S. C. App. 321, Supp. III). The responsibility of the Bureau was continued in the Selective Service Act of 1948, as amended (62 Stat. 604; 50 U. S. C. App. 451, Supp. III). The Director of the Bureau of Veterans' Reemployment Rights, subject to the general direction and supervision of the Secretary of Labor is responsible for the administration of the Bureau and its functions. He is aided by an Assistant Director and a Liaison Officer, who is responsible for supervision of the Bureau's field offices.

Functions. The Bureau has the responsibility of rendering assistance in connection with the exercise of their reemployment rights by ex-servicemen as provided by section 8 of the Selective Training and Service Act of 1940, as amended (54 Stat. 890; 50 U. S. C. App. 308), and related reemployment statutes, and section 9 of the Selective Service Act of 1948. The Bureau also participates in the manpower work of the Department.

Field organization and operations. The field organization of the Bureau consists of local and State volunteer reemployment rights committeemen, who have been designated by the Secretary of Labor and serve without pay, and field representatives of the Bureau. The field organization is augmented by local offices of the State Employment Services, which provide information and referral service.

The initial point of contact for ex-servicemen, employers, labor and veteran organizations and others interested in the reemployment rights of ex-servicemen is the local State Employment Service Office or the nearest field office. The local employment service office may refer the inquiring person to the volunteer re-

employment rights committeeman in the locality. The committeeman, under the supervision of the Bureau's field representative, seeks to negotiate controversies to a voluntary settlement; if he fails, the matter is referred to the nearest field representative, who, with his wide experience and fortified with the legal assistance of the Solicitor of Labor, continues the negotiations for amicable settlement.

In those cases where settlement is not reached, the ex-serviceman is advised of his right to be represented by the United States Attorney for the district in which the employer has a place of business. Thereafter the field organization cooperates with the United States Attorney with respect to legal action taken on designated claims.

Field offices of the Bureau are as follows:

Location	Address	Area served
Boston, Mass	18 Oliver St., Boston 10, Mass	Massachusetts, Vermont, Maine, Rhode Island, New Hampshire.
New York, N. Y	Veterans Service Center, 500 Park Ave., New York 22, N. Y.	New York, Connecticut, New Jersey.
Washington, D. C	7312 Department of Labor Bldg., Washington 25, D. C.	West Virginia, Maryland, Pennsylvania, Delaware, Virginia, District of Columbia.
Area office	811 Lafayette Bldg., 5th and Chestnut Sts., Philadelphia 6, Pa.	
Do	502-E New Federal Bldg., Pittsburgh, Pa.	
Atlanta, Ga	651 Peachtree-7th Bldg., 50 7th St. NE., Atlanta, Ga.	Mississippi, Alabama, North Carolina, South Carolina, Georgia, Florida, Puerto Rico.
Louisville, Ky	512 Republic Bldg., 429 West Walnut St., Louisville 2, Ky.	Kentucky, Indiana, Tennessee.
Detroit, Mich	675 Federal Bldg., Detroit, Mich	Michigan, Ohio.
Area office	521 Federal Bldg., Cleveland 14, Ohio	
Chicago, Ill	1200 Merchandise Mart, Chicago 54, Ill	Illinois, Minnesota, North Dakota, South Dakota, Wisconsin.
Area office	508 Pence Bldg., Minneapolis, Minn	
Kansas City, Mo	1114 Fidelity Bldg., Kansas City 6, Mo	Missouri, Colorado, Iowa, Nebraska, New Mexico, Wyoming, Kansas.
Area office	29 New Customhouse, 19th and Stout, Denver, Colo.	
Dallas, Tex	222 Commercial Bldg., 1100 Main St., Dallas, Tex.	Texas, Arkansas, Oklahoma, Louisiana.
San Francisco, Calif	102 Federal Office Bldg., San Francisco 2, Calif.	California, Arizona, Nevada, Utah, Hawaii.
Area office	Furniture Exchange Bldg., 1206 Santee St., Los Angeles, 15, Calif.	
Seattle, Wash	617 Federal Office Bldg., Seattle 4, Wash	Washington, Alaska, Idaho, Oregon, Montana.

Information and requests. Requests for general information concerning the statutes administered by the Bureau should be addressed to the Director, Bureau of Veterans' Reemployment Rights, United States Department of Labor, Washington 25, D. C., or to the nearest field office.

Women's Bureau. The Women's Bureau, under the general direction and supervision of the Secretary of Labor, formulates standards and policies which will promote the welfare of wage-earning women, improve their working conditions, increase their efficiency, and advance their opportunities for profitable employment (41 Stat. 987; 29 U. S. C. 13). Specifically, the Bureau—

Conducts research to develop factual data on all matters affecting women's economic status, such as problems related to wages and working conditions, employment opportunities, need for adequate training facilities, and opportunities for advancement; compiles and analyzes statistical data on women workers collected by other Federal agencies (Bureau of Labor Statistics, Census, and United States Employment Service), making available such information as number of women in the labor force, earnings and occupational trends of women workers, and marital status and age.

Develops standards of good labor legislation for women and administrative practices under women's labor laws; analyzes existing State laws relating to women and administrative practices under them in such areas as minimum-wage, equal-pay, hours legislation, conditions of work, and civil and political status. Serves as source for information to other Federal agencies, State labor departments, women's organizations, trade unions, employer associations, and international organizations such as the International Labor Organization and the United Nations, on all matters pertaining to women's labor law and civil and political status.

Promotes good labor standards for women in the States by giving on request consultative and technical assistance to State departments of labor in connection with administrative practice under existing laws such as minimum-pay, equal-pay, and hours legislation, and in connection with new legislation on these and other forms of women's law. It furnishes assistance to women's organizations, trade unions, civic groups, and others concerned with improving women's economic and civil and political status.

Publishes and distributes technical information obtained as a result of the Bureau's studies and analyses. Prepares popular leaflets, charts, and maps for distribution to the general public insuring more widespread use of the technical materials developed.

In connection with these functions, the Bureau participates in the defense manpower work of the Department and in interdepartmental programs of cooperation with other countries and renders advisory and technical services to improve the welfare of wage-earning women in these countries. Because of the work of the Bureau in the field of civil and political status of women, it acts in an advisory capacity to the Department of State on matters concerning the United Nations Commission on the Status of Women and the Human Rights Commission. A staff member is the United States delegate on the Inter-American Commission of Women. In addition, the Bureau frequently represents the Department of Labor on international bodies dealing with labor standards affecting women.

National organization. The Director of the Women's Bureau is responsible, subject to the direction and supervision of the Secretary of Labor, for the policies and the administration of the Bureau. The Women's Bureau has a small field staff operating from the national office.

Information and requests. All requests for information, copies of publications and for special technical assistance in problems relating to the employment and legal status of women should be addressed to the Director, Women's Bureau, United States Department of Labor, Washington 25, D. C.

Bureau of Employees' Compensation. Creation and authority. The Bureau of Employees' Compensation was established in the Federal Security Agency under the provisions of section 3 of Reorganization Plan No. 2, effective July 16, 1946. The Bureau, together with its functions, was transferred to the Department of Labor pursuant to Reorganization Plan No. 19 of 1950, effective May 24, 1950 (15 F. R. 3178).

The Bureau, under authority delegated by the Secretary of Labor, is responsible for the administration of various acts providing workmen's compensation benefits. The Bureau is under the immediate supervision and direction of a Director appointed by the Secretary.

Functions. The Bureau of Employees' Compensation administers laws which are, in general, the Federal Government's system of workmen's compensation. These laws provide compensation for workers, and their dependents, for death or disability resulting from injuries suffered in the course of employment. The laws may be divided roughly into two categories, (1) laws affecting private employees, and (2) laws affecting public employees.

The basic workmen's compensation law for Federal employees is the Federal Employees' Compensation Act (39 Stat. 742; 5 U. S. C. 751). It provides compensation for employees of the United States and their dependents (as defined in the act), for disability or death resulting from personal injuries suffered while in the performance of duty, or disease proximately caused by their employment. In addition to cash benefits for disability or death, medical care and treatment, supplies and appliances are furnished to injured employees; funeral and burial expenses up to $400 may be paid; in certain cases allowances are authorized for an attendant, and subsistence may be granted to employees undergoing vocational rehabilitation.

The protection of this act (with modifications) has been extended to employees of the Government of the District of Columbia, members of the various reserve components of the military establishment during peacetime, Coast Guard Reserve and Auxiliaries,

Women's Reserve Groups, the Women's Army Auxiliary Corps under certain conditions, evacuees in war relocation camps, persons employed on certain Federal relief projects, commissioned officers of the Public Health Service, Federal student nurses and certain other groups. The act also applies (with modifications) to a number of remaining casualties of the old W. P. A., C. C. C., and other emergency relief programs.

Claims for compensation are processed by claim examiners in the Claims Branch of the Bureau. The case is adjudicated after consideration of the claim, written evidence presented by or on behalf of the claimants, and upon completion of such inquiry or investigation as the Bureau may deem necessary. The final authority in the Bureau in the determination of claims is the Director of the Bureau. His final order is subject to review by the Employees Compensation Appeals Board on questions of law and fact, upon appeal by the claimant.

The Bureau is responsible for the administration of the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1424; 33 U. S. C. 901), which provides a system of workmen's compensation benefits for employees in private enterprises engaged in pursuits in Federal admiralty jurisdiction (excluding the master or members of crew of any vessel). Compensation is provided for disability or death caused by an injury (or disease) occurring while engaged in maritime employment on navigable waters of the United States. The principal coverage is of longshoremen, ship servicemen, ship repairmen, harbor workers and others of like employment. Compensation is payable for disability resulting from injury, and if the injury causes death, death benefits are payable to dependents named in the act. Funeral expenses not exceeding $400 are also allowable. The employer is required to furnish to the injured employee medical, surgical, and other treatment, nurse and hospital service, and supplies and appliances as the nature of the injury or the process of recovery may require. An additional allowance, payable from a special fund established by the act, may be paid to an injured employee undergoing vocational rehabilitation.

The Longshoremen's Act is administered in the Bureau of Employees' Compensation through deputy commissioners in 13 compensation districts comprising the United States, Alaska, and Hawaii. Under the act, compensation and other benefits are not paid by the United States but must be provided by the employer either as a self-insurer or through insurance with an approved insurance carrier. the deputy commissioners adjudicate claims and perform quasi-judicial functions in deciding the rights of private parties (i. e., the employee or his dependents and the employer or his insurance carrier). There is no administrative appeal to or review by the Bureau. Judicial review of the deputy commissioners' decisions is provided for by the act.

The Longshoremen's and Harbor Workers Compensation Act (with modifications) was extended to private employment, with minor exceptions, in the District of Columbia (45 Stat. 600; 33 U. S. C. 901 note). This law is administered locally by a deputy commissioner of the Bureau. The duties and responsibilities of the Bureau are the same as those described in connection with the Longshoremen's Act. The cost of administering this law is paid from funds appropriated for the Government of the District of Columbia.

By act of August 16, 1941 (Defense Bases Act, 55 Stat. 622; 42 U. S. C. 1651) the Longshoremen's Act (with modifications) was extended to provide workmen's compensation benefits to employees engaged in work at United States Military, Air and Naval bases outside the continental limits of the United States, and on public works projects of the United States outside the country. The Defense Bases Act is administered in the same manner as the Longshoremen's and Harbor Workers Compensation Act by deputy commissioners.

By act of December 2, 1942 (War Injury Act, 56 Stat. 1028; 42 U. S. C. 1651, 1701–1717), provision was made for payment of benefits from the compensation fund established by the Federal Employees' Compensation Act for certain employees whose employments are within the purview of the Defense Bases Act, but who suffered injury or death as a result of war-risk hazard under circumstances not giving rise to entitlement to benefits under the Defense Bases Act. Payments of detention benefits to dependents of such employees found to be missing from their places of employment due to the belligerent action of an enemy or who were captured by an enemy, are provided for by such act of December 2, 1942. With the exception of detention benefits, the benefits for disability or death provided are substantially those provided for in the Longshoremen's Act. For the purpose of administration, additional district offices were established at Honolulu, T. H., and Manila, Philippine Islands.

The Bureau also administers certain parts of the War Claims Act of 1948 (62 Stat. 1240; 50 U. S. C. Sup. III, App. 2001). Under this law the Bureau receives and processes claims of employees of certain contractors with the United States (principally contractors' employees, employed on certain Pacific Islands, who were captured by the Japanese) for wages due such employees under their contracts of employment, less any benefit payments in such cases made by the Bureau on account of detention by the enemy during World War II, and less any other amounts paid by the contractors to employees. Such claims are paid out of the War Claims Fund established by such act. Under this law the Bureau also processes and adjudicates the claims of civilian American citizens for benefits payable under the Act on account of injury, disability, or death occasioned by reason of capture or detention by the Japanese Government at Midway, Guam, Wake Island, Philippine Islands, or other places subject to Federal jurisdiction, attacked or invaded by the Japanese.

Employees' Compensation Appeals Board—Organization. The Employees' Compensation Appeals Board, originally created in the Federal Security Agency pursuant to authority contained in Reorganization Plan No. 2 of 1946 and transferred to the Department of Labor by Reorganization Plan No. 19 of 1950, effective May 24, 1950, consists of three members appointed by the Secretary of Labor, one of whom is designated as chairman and administrative officer. The Board has its principal office in Washington, but is authorized to perform its work at any place deemed necessary.

Jurisdiction. In accordance with the regulations of the Secretary of Labor (see 20 C. F. R. Chapter IV), the Board has jurisdiction to consider and decide appeals from the final decision, with findings of fact, and award, of the Bureau of Employees' Compensation of the Department in any case arising under the Federal Employees' Compensation Act, or arising under any statutory extension or application of such act. Appeals are also taken from final determinations of the Bureau of Employees' Compensation involving the exercise of discretion, but only is based upon the ground of abuse of, or refusal to exercise, discretion. There is no appeal in respect to any interlocutory matter disposed of by such Bureau during the pendency of a compensation case.

The jurisdiction of the Board extends to review of questions of law and fact within the purview of the United States Employees' Compensation Act, or extension thereof, and the review of the case is made upon the findings of fact and the action of the Director of the Bureau of Employees' Compensation taken pursuant to section 36 of such act (5 U. S. C. 786) and upon the particular case record in the Bureau of Employees' Compensation. The decision upon appeal by the Board is final except as to further statutory review provided for in section 37 of the United States Employees' Compensation Act. The Board may, however, review its own decisions.

Wage and Hour and Public Contracts Divisions—Functions. Pursuant to Reorganization Plan No. 6 of 1950 (15 F. R. 3174), the Administrator of the Wage and Hour Division has been charged with the functions, subject to the general direction and control of the Secretary of Labor, of administering and enforcing the Fair Labor Standards Act, as amended (52 Stat. 1060, 63 Stat. 910; 29 U. S. C. 201 and Supp. IV), and the administration and enforcement of the Walsh-Healey Public Contracts Act (49 Stat. 2036; 41 U. S. C. 35).

Pursuant to agreement with the Wage Stabilization Board, the Divisions act as agent of the Wage Stabilization Board by (1) disseminating information to the public through any of the Divisions' field offices throughout the country, (2) issuing authoritative written rulings as to interpretation and application of the wage stabilization regulations of the Wage Stabilization Board and the Economic Stabilization Administrator, (3) receiving and processing reports which must be filed pursuant to some of the regulations of the Board, (4) accepting and processing petitions for wage and salary increases in excess of those per-

mitted by the General Wage Regulations of the Board, and (5) accepting and processing applications with respect to special situations which require Board approval. These petitions and applications are then transmitted to the Board for its decision.

National organization. The national office of the Divisions is located in the Department of Labor Building, Washington 25, D. C.

The national office of the Wage and Hour and Public Contracts Divisions is organized as follows:

The Administrator plans, administers and directs the departmental and field organization of the Divisions in carrying out the enforcement of the Fair Labor Standards and the Walsh-Healey Public Contracts Acts (hereinafter referred to as the acts). He is assisted in his executive and administrative duties by a Deputy Administrator who acts for him in his absence. A Technical Assistant to the Administrator and an Assistant to the Deputy Administrator render further assistance. Two Assistant Administrators have been assigned duties as follows:

An Assistant Administrator has responsibility for the coordination and administration of all field enforcement activities and supervises, directs, plans and reviews the work of the following divisions:

The Division of Field Operation Activities plans and directs the activities of the Field Operation Officers, who periodically travel to regional and field offices to maintain liaison between these offices and the office of the Assistant Administrator and who have basic responsibility for maintaining uniformity in the enforcement operations of the various regional, State agreement, and territorial offices, and the making of periodic investigations of all aspects of regional and field enforcement activities

The Division of Child Labor is responsible for coordination of all activities directly affecting enforcement of child labor provisions of the acts, including the issuance of Federal certificates of age. This division also acts as a liaison agency with the Child Labor and Youth Employment Division of the Bureau of Labor Standards in the development of child labor regulations and orders issued under the Fair Labor Standards Act.

The Division of Policy and Planning, with relation to enforcement activities, evaluates and analyzes all policy and procedural problems, initiates new and revised policies and procedures and coordinates investigation program planning as necessitated by operating conditions to effectuate maximum compliance, prepares and issues forms and operating instructions to the field staff.

The Division of Investigation Control and Analysis reviews and processes investigation reports containing unusual situations which are not covered by established policies and procedures governing investigations; analyzes and processes sheltered workshop certification surveys and other reports relating to enforcement activities; conducts investigations of firms in the District of Columbia subject to the acts; receives and deposits with the Treasury Department for distribution to affected employees or General Treasury funds checks from firms found in violation of the minimum wage and maximum hours and child labor provisions of the acts; controls, reviews and coordinates field investigations involving firms having branches in more than one region.

An Assistant Administrator has responsibility for the coordination and direction of the activities of the following divisions:

The Division of Wage Determinations is responsible for conducting activities connected with the Walsh-Healey Public Contracts Act minimum wage determinations, the development of administrative policy under provisions of the Walsh-Healey Public Contracts Act and the development and administration of the minimum wage program for Puerto Rico and the Virgin Islands under the Fair Labor Standards Act. The division is also responsible for the development and application of subminimum wage standards under the acts, and the issuance of permits for learners, student learners, apprentices and messengers.

The Division of Regulations and Exemptions is responsible for formulation and recommendation of regulations under the Fair Labor Standards Act (except those related to setting of wage rates and child labor) and for any required administrative action under the regulations; for the development and recommendation of administrative policies, rulings and interpretations on the provisions of the act, and the exemptions (except those related to setting wage rates and child labor); and for coordination with the Walsh-Healey Public Contracts Act where applicable.

The Division of Research and Statistics is responsible for basic research on administrative problems; legislative research; assistance in litigation; preparation and analysis of statistics of operations; and initiates policy recommendations in connection with these fields.

In addition, two divisions directly responsible to the Administrator are as follows:

The Division of Information and Compliance, with a Director in charge, advises on and participates in policy decisions of the Divisions involving public relations and creates and effectuates a comprehensive information program designed to achieve voluntary compliance with the acts.

The Division of Business Management, under the direction of the Executive Officer, is responsible for directing budget and fiscal, personnel, office service, and related management activities of the Divisions, including the audit of State Agreements, and for evaluating and recommending improvements in policies, program organization and operations of the Divisions.

Field organization. The investigation work of the Divisions and their enforcement work in the field are conducted through the regional offices of the Department of Labor, a Territorial Director in Puerto Rico and Territorial Representatives in Alaska and Hawaii. The Regional Director in charge of each region is responsible to the Administrator for enforcement activities in his area. Field offices, field stations and itinerant stations operating under the supervision of the Regional Director have been established within each region.

In addition, certain investigative functions relating to the enforcement of the Acts in the States of North Carolina and Minnesota have been delegated to the respective State departments of labor under cooperative agreements entered into with those States pursuant to section 11 (b) of the Fair Labor Standards Act and section 4 of the Walsh-Healey Public Contracts Act. Assistance in conducting investigation under these agreements is furnished by assignment of one representative of the Divisions to each of the State offices at St. Paul, Minnesota, and Raleigh, North Carolina. Also, agreements have been consummated with more than 20 State departments of labor, as well as with the District of Columbia and the Territory of Hawaii, under which they make safety and health investigations of concerns subject to the Walsh-Healey Public Contracts Act.

The Divisions maintain field representatives in Idaho, Mississippi, South Carolina, and Texas for the purpose of issuing Federal certificates of age (see 29 CFR Parts 401 and 402), pursuant to the child labor provisions of the acts.

The Administrator of the Divisions has made the following delegations of authority to Regional Directors, Assistant Regional Directors, the Territorial Director in Puerto Rico, the Territorial Representatives in Hawaii and Alaska, and the Commissioner of Labor in North Carolina:

1. Power to grant, deny, or cancel special homework certificates pursuant to the provisions of certain wage orders issued under the Fair Labor Standards Act, and to hold hearings in connection therewith;

2. Power to issue, deny or cancel handicapped workers' certificates; [1]

3. Power to issue, deny, or cancel certificates for the employment of handicapped clients in sheltered workshops.[2]

Applications in connection with this subparagraph and subparagraphs 1 and 2 of this paragraph should be addressed to the respective persons specified therein.

4. Power to issue, deny or revoke special certificates for the employment, under any vocational rehabilitation program administered by the Veterans' Administration, at subminimum rates, of veterans handicapped by a service-incurred disability. The issuance of such

[1] In general, the rules applicable to the employment of handicapped workers under the Fair Labor Standards Act are also applicable to the employment of handicapped workers under the Walsh-Healey Public Contracts Act. See 41 C. F. R. 201.1102.

[2] Special circumstances at times require certification by the national office, therefore the power to issue, deny, or cancel certificates for the employment of handicapped clients in sheltered workshops has also been delegated to the Assistant Administrator in charge of field operations, and to the assistant chief of Field Operation Activities of the national office.

special certificates follows upon receipt by the regional director from the Veterans' Administration of a copy of a temporary certificate authorizing such employment and issued by such representatives of the Veterans' Administration as have been designated by the Administrator as his authorized representatives to issue, deny, or revoke such temporary certificates.

Complaints of violation of the acts may be filed at the nearest regional or field office of the Divisions. General information may be obtained either from the Director of the Division of Information and Compliance at the national office or at the nearest regional or field office. The regional offices answer questions relative to the application of the acts in respect to matters on which the Administrator has asserted a position. Requests for such information should be addressed to the regional or field office nearest the applicant or to the national office of the Divisions.

Federal certificates of age in Idaho may be obtained at the following address:

State Department of Public Instruction,
Special Agent, Division of Child Labor,
Wage and Hour Division,
U. S. Department of Labor,
Boise, Idaho.

Such certificates in Mississippi, South Carolina, and Texas may be obtained by addressing the Division of Child Labor, Wage and Hour and Public Contracts Divisions, U. S. Department of Labor, at the following places, respectively:

1. 425½ South State Street, Jackson 8, Miss.
2. 1401 Hampton Street, Columbia, S. C.
3. 1114 Commerce Street, Dallas, Tex.

A list of the regional and other offices of the Divisions is as follows:

Region	States	Regional office address
Region I	Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut.	18 Oliver St., Boston 10, Mass.
Region II	New York, New Jersey	900 U. S. Parcel Post Bldg., 341 9th Ave., New York 1, N. Y.
Region III	Pennsylvania, Maryland, Delaware	Room 525, Lafayette Bldg., 437 Chestnut St., Philadelphia, Pa.
Region IV	Mississippi, Alabama, Georgia, South Carolina, Florida.	1007 Comer Bldg., 2026 2d Ave. North, Birmingham, Ala.
Region V	Michigan, Ohio	Perry-Payne Bldg., 704 Superior Ave. NW., Cleveland, Ohio.
Region VI	Wisconsin, Illinois, Indiana, Minnesota.	1200 Merchandise Mart Bldg., Merchandise Mart Plaza, Chicago 54, Ill.
Region VII	Iowa, Missouri, Kansas, Nebraska, South Dakota, North Dakota, Wyoming, Colorado.	600 Federal Office Bldg., 911 Walnut St., Kansas City 6, Mo.
Region VIII	New Mexico, Oklahoma, Arkansas, Louisiana, Texas.	Room 222, 1114 Commerce St., Dallas 2, Tex.
Region IX	Washington, Oregon, California, Nevada, Utah, Arizona, Idaho, Montana.	150 Federal Office Bldg., Fulton and Leavenworth Sts., San Francisco 2, Calif.
Region X	Tennessee, Virginia, West Virginia, Kentucky.	Telephone Bldg., 150 9th Ave. North, Nashville, Tenn.
District of Columbia		Temp. V, Room 1513 15th and Pennsylvania Ave., NW., Washington, D. C.
Territorial offices:		
Puerto Rico	Puerto Rico and Virgin Islands	New York Department Store Bldg., Stop 16½ Ponce de Leon Ave., P. O. Box 3906, Santurce 29, P. R.
Alaska		201-202 Federal Bldg., P. O. Box 1030, Juneau, Alaska.
Hawaii		345-347 Federal Bldg., King and Richards Sts., Honolulu, 2, T. H.
Cooperating agencies:		
North Carolina		North Carolina Department of Labor, State Department Bldg., Salisbury and Edenton Sts., Raleigh, N. C.
Minnesota		Department of Labor and Industry, Industrial Commission of Minnesota, 137 State Office Bldg., St. Paul 1, Minn.

Signed at Washington, D. C., this 9th day of August 1951.

MAURICE J. TOBIN,
Secretary of Labor.

[F. R. Doc. 51-9734; Filed, Aug. 15, 1951; 8:51 a. m.]

ECONOMIC STABILIZATION AGENCY

Office of Price Stabilization

[Region IX Redelegation of Authority No. 5]

DIRECTORS OF DISTRICT OFFICES, REGION 9

REDELEGATION OF AUTHORITY TO ACT ON APPLICATIONS FOR ADJUSTMENT OF PRICES RELATING TO ICE

By virtue of the authority vested in me as Director of the Regional Office of Price Stabilization, Region 9, pursuant to the provisions of Delegation of Authority No. 14, dated July 27, 1951 (16 F. R. 7431), this redelegation of authority is hereby issued.

1. *Authority to act under GCPR, SR 45.* Authority is hereby redelegated to the Directors of the District Offices of the Office of Price Stabilization, Region 9, to act on all applications for adjustment under the provisions of sections 1-6 inclusive, of GCPR, SR 45, as amended.

This redelegation of authority is effective as of August 1, 1951.

H. ROE BARTLE,
Regional Director, Region 9.

AUGUST 14, 1951.

[F. R. Doc. 51-9777; Filed, Aug. 14, 1951; 3:47 p. m.]

[Delegation of Authority No. 17]

REGIONAL DIRECTORS

DELEGATION OF AUTHORITY TO PROCESS INITIAL REPORTS FILED BY CERTAIN RESTAURANT OPERATORS UNDER CPR 11

By virtue of the authority vested in me as Director of Price Stabilization pursuant to the Defense Production Act of 1950 (64 Stat. 812), as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization General Order No. 2 (16 F. R. 738) this delegation of authority is hereby issued.

1. Authority to act under section 6 of CPR 11. Authority is hereby delegated to the Directors of the Regional Offices of the Office of Price Stabilization to process the initial reports filed under section 6 of CPR 11 and to revise food cost per dollar of sale ratio referred to in section 4 thereof. The authority herein delegated may be redelegated to the Directors of District Offices of the Office of Price Stabilization.

The delegation of authority shall take effect on August 16, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

AUGUST 15, 1951.

[F. R. Doc. 51-9852; Filed, Aug. 15, 1951; 12:12 p. m.]

DISTRICT OFFICES

ORGANIZATIONAL STATEMENT

The field organization of the Office of Price Stabilization of the Economic Stabilization Agency, established pursuant to the Defense Production Act of 1950 (Pub. Law 774, 81st. Cong.), as amended, and Executive Order 10161 (15 F. R. 6105) as published in the Federal Register dated February 2, 1951 (16 F. R. 987), and as amended March 3, 1951 (16 F. R. 2028), April 20, 1951 (16 F. R. 3444), May 12, 1951 (16 F. R. 4476), June 21, 1951 (16 F. R. 5959), June 28, 1951 (16 F. R. 6322), July 24, 1951 (16 F. R. 7266), and July 26, 1951 (16 F. R. 7338) is further amended as follows:

Region IV, Richmond, Va. The counties of Sullivan, Johnson, Carter, Washington, and Unicoi, Tennessee, heretofore serviced by the Nashville, Tennessee District Office (Region V) will now be serviced by the Charlotte, North Carolina District Office (Region IV).

MICHAEL V. DISALLE,
Director of Price Stabilization.

AUGUST 15, 1951.

[F. R. Doc. 51-9854; Filed, Aug. 15, 1951; 12:12 p. m.]

[Delegation of Authority 18]

DIRECTOR OF REGION 13

DELEGATION OF AUTHORITY TO ESTABLISH GROUP ADJUSTMENT OF CERTAIN CONTRACT CARRIER RATES

By virtue of the authority vested in me as Director of Price Stabilization

pursuant to the Defense Production Act of 1950 (64 Stat. 812), as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization General Order No. 2 (16 F. R. 738) this delegation of authority is hereby issued.

1. *Authority to act under section 5 (d) of Supplementary Regulation 39 to the General Ceiling Price Regulation.* Authority is hereby delegated to the Director of Region 13 of the Office of Price Stabilization to establish or adjust, on a uniform group basis, the ceiling rates of all contract carriers engaged in the transportation of milk, fruit or vegetables in a local area in Region 13, provided individual applications are filed by a representative number of the carriers commonly engaged in handling that particular traffic, or by a user of such service.

The delegation of authority shall take effect on August 16, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

AUGUST 15, 1951.

[F. R. Doc. 51-9855; Filed, Aug. 15, 1951; 12:12 p. m.]

FEDERAL COMMUNICATIONS COMMISSION

CLASS 2 EXPERIMENTAL RADIO STATIONS

EXTENSION OF LICENSE TERM

In the matter of extension of the License term of certain Class 2 Experimental radio stations operating in the Common Carrier Service (including General Mobile, TV–Pickup, TV–STL, Microwave Relay, Short Haul Toll, Rural Subscriber, Repeater, Domestic Control and Developmental stations).

At a session of the Federal Communications Commission, held at its offices in Washington, D. C., on the 8th day of August 1951;

The Commission, having under consideration the desirability of extending the license term of certain Class 2 Experimental radio stations operating in the Common Carrier Service (including General Mobile, TV–Pickup, TV–STL, Microwave Relay, Short Haul Toll, Rural Subscriber, Repeater, Domestic Control and Developmental stations);

It is ordered, That the license term of each presently authorized Class 2 Experimental radio station operating in the Common Carrier Service in accordance with the table of frequency allocations as set forth in Part 2 of the Commission's rules (including General Mobile, TV–Pickup, TV–STL, Microwave Relay, Short Haul Toll, Rural Subscriber, Repeater, Domestic Control and Developmental stations), is extended until November 1, 1952, in exact accordance with the terms of the presently effective license, subject to further order of the Commission.

Released: August 9, 1951.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary,

[F. R. Doc. 51-9729; Filed, Aug. 15, 1951; 8:49 a. m.]

[Docket No. 10026]

FRED BIRCH AND FAIRMONT CORP.

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In re application of Fred Birch (transferor), the Fairmont Corporation (transferee), for transfer of control of Buttrey Broadcast, Inc., licensee of Station KFBB, Great Falls, Montana; File No. BTC–1068, Docket No. 10026.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 1st day of August 1951;

The Commission having under consideration the above-entitled application for consent to the transfer of control of Buttrey Broadcast, Inc., licensee of Station KFBB, Great Falls, Montana, from Fred Birch to the Fairmont Corporation, wholly owned subsidiary of the Anaconda Copper Mining Company; and

It appearing, that a question of the character qualifications of Anaconda Copper Mining Company, and, therefore, its wholly-owned subsidiary, the Fairmont Corporation, arises from Anaconda's conviction and fine for violation of section 1 of the Sherman Act (26 Stat. 209) on February 6, 1941, on an indictment of Anaconda as one of the co-defendants as being a party to a conspiracy to unlawfully restrain interstate trade and commerce in Western pine lumber, and the entering of a consent decree, on February 6, 1941, in a civil suit against Anaconda, based on this violation, perpetually enjoining Anaconda, as one of the co-defendants, from continuing the practices proscribed; and

It further appearing, that, coupled with the above question, Fairmont's acquisition of control of Station KFBB would add measurably to Anaconda's and Fairmont's already substantial influence in the State of Montana stemming from their extensive newspaper, business, mining, timber and industrial holdings in the State; and

It further appearing, that in view of the above, the Commission is of the opinion that a public hearing is necessary in order to secure the full information requisite for the public interest determination required by section 310 (b) of the Communications Act of 1934, as amended; therefore,

It is ordered, That the above-entitled application is designated for hearing, at Great Falls, Montana, on September 24, 1951, on the following issues:

1. To determine whether the Fairmont Corporation, and its parent corporation, Anaconda Copper Mining Company, and their respective officers, directors and stockholders, possess the requisite character, legal, financial and other qualifications to control Station KFBB; and, relative to this determination, to obtain full information with respect to:

a. The conviction and fine of Anaconda Copper Mining Company for violation of section 1 of the Sherman Act (26 Stat. 209) in U. S. District Court, Southern District of California, Central Division, on February 6, 1941. U. S. v. Western Pine Association, et al, Cr. 14522.

b. The civil suit and the consent decree there entered with respect to this violation in the same court, wherein Anaconda Mining Company was named as one of the co-defendants. U. S. v. Western Pine Association, et al., Civil 1389–RJ.

c. The plants, properties or other business interests that Anaconda, or any of its subsidiaries, including the Fairmont Corporation, or companies or organizations which Anaconda has stock interest in, have in the State of Montana; the policies of operation thereof; the number of persons employed therein; and further, with relation to the number of persons so employed, the total of employed persons in the State of Montana, Cascade County and Great Falls.

2. To determine the effect that grant here would have upon the diversification and competition in media for dissemination of news information.

3. To obtain full information with respect to Anaconda Copper Mining Company's ownership and control of the Fairmont Corporation, the method of exercising such control, and the effect of such control upon the policies and operation of Fairmont.

4. To obtain full information with respect to other broadcast interests, if any, held by the Fairmont Corporation, or Anaconda Copper Mining Company, or any of their respective officers, directors or stockholders.

5. To obtain full information with respect to the plans of the Fairmont Corporation, and the Anaconda Copper Mining Company, for staffing Station KFBB, its plans with respect to the station's programming, and all other plans and arrangements for the operation of the station.

6. To determine the area and population served by station KFBB, and the stations already serving the area.

7. To determine, in the light of information adduced under the foregoing issues, whether a grant of the subject application would be in the public interest.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

AUGUST 8, 1951.

[F. R. Doc. 51-9730; Filed, Aug. 15, 1951; 8:49 a. m.]

[Docket Nos. 10031–10032]

PARAMOUNT TELEVISION PRODUCTIONS, INC., ET AL.

ORDER DESIGNATING APPLICATION FOR HEARING ON STATED ISSUES

In the matter of the applications of A. Paramount Television Productions, Inc., for licenses to cover construction permits for television stations: KTLA, Hollywood, California; Remote Pick-up Broadcast stations KA–5793, KA–5794, KA–5795, KA–5967, KA–5966; for renewal of licenses of television pick-up stations: KA–3436, KA–4841, KA–4842, and Experimental Television broadcast station KM2XBB, Docket No. 10031, File

Nos. BLCT–84, BLRE–987, BLRE–988, BLRE–989, BLRE–915, BLRE–914, BRVB–136, BRVB–169, BRVB–177, BRVB–42; and Paramount Pictures, Inc. (transferor), Paramount Pictures Corporation (transferee), for consent to transfer of control of Paramount Television Productions, Inc., File No. BTC–870.

B. Allen B. DuMont Laboratories, Inc., for licenses to cover construction permits for: Television station WDTV, Pittsburgh, Pa., WTTG, Washington, D. C., and television pick-up Station KA–4447; for modification of construction permits for experimental television broadcast Station KE2XDR; and for renewal of licenses of: Television Station WABD, New York, New York, television pick-up Stations KA–3431, KA–3432, KA–4448, KA–3433, KA–3434; remote pick-up broadcast Station 4039; experimental television Stations KE2XDN, KE2XDR; television intercity relay station KCA–61, Docket No. 10032, File Nos. BLCT–26, BLCT–50, BLVB–277, BMPVB–279, BRCT–6, BRVB–86, BRVB–91, BRVB–178, BRVB–84, BRVB–87, BRRE–695, BRVB–29, BRVB–56, BRVB–133; and Paramount Pictures, Inc. (transferor), Paramount Pictures Corporation (transferee), for consent to transfer of control of Allen B. DuMont Laboratories, Inc.; File No. BTC–974.

C. Balaban & Katz Corporation, for licenses to cover construction permits for: Television Station WBKB, Chicago, Illinois, and FM Station WBIK, Chicago, Illinois; for modification of construction permit for Station WBKB; and for renewal of licenses of television Station WBKB and television pickup Stations KA–3428, and KA–3429, Docket No. 10033, File Nos. BLCT–43, BLH–573, BMPCT–547, BRCT–5, BRVB–37, BRVB–149; and Paramount Pictures, Inc. (transferor), United Paramount Theatres, Inc. (transferee), for consent to transfer of control of Balaban & Katz Corporation; File No. BTC–865.

D. Paramount Pictures, Inc., E. V. Richards, Jr. (transferors), United Paramount Theatres, Inc. (transferee), for consent to transfer of control of WSMB, Inc., licensee of Stations WSMB and WSMB–FM, New Orleans, Louisiana; Docket No. 10034, File Nos. BTC–866 and BTC–867.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 8th day of August 1951;

The Commission having under consideration the above styled applications for renewal of licenses, licenses to cover construction permits, modification of construction permits, and for transfers of control; and

It appearing, on the basis of information available to the Commission, that Paramount Pictures, Inc., Paramount Television Productions, Inc., and Balaban and Katz Corporation have, in the past, engaged in violations of the Federal Anti-Trust Laws and have either been finally adjudicated guilty of such violations by courts of competent jurisdiction or have entered into consent decrees relating to such violations; and

It further appearing, that, the Commission, on March 29, 1951, released its report (Docket 9572) establishing Commission policy to be followed in the licensing of broadcast stations in connection with violations by applicants of laws of the United States, other than the Communications Act of 1934; and that, further, in the light of the principles enunciated in that report, the Commission cannot at this time, find that grants of the above applications for renewal of licenses, for licenses to cover construction permits and for modifications of construction permits, are in the public interest, convenience and necessity; and

It further appearing, from the information now before the Commission, that, despite the applicants' characterization of the above applications as applications for approval of "involuntary" transfers of control, the actions taken thereunder were voluntary in nature and were taken without approval of the Commission as required by sections 310 (b) and 319 (b) of the Communications Act of 1934, as amended; and

It further appearing, that the Commission cannot at this time determine, under sections 310 (b) and 319 (b) of the Communications Act of 1934, as amended, that grants of the aforesaid applications for consent to transfers of control would be in the public interest, convenience and necessity;

It is ordered, Pursuant to sections 309 (a), 310 (b) and 319 (b) of the Communications Act of 1934, as amended, that all of the above applications are designated for hearing in a consolidated proceeding to be heard at Washington, D. C., at a time to be set by further order of the Commission, the aforesaid renewal, license, and modification applications to be heard upon the following issues:

1. To obtain full information with respect to the participation of any of the applicants, their officers, directors, stockholders, employees, or agents, in any violations of either Federal or State anti-trust laws, the extent and character of such participation, and the results of any litigation flowing from such participation and more specifically to secure information as to:

a. Whether the violations committed were willful or inadvertent.

b. Whether the violations were committed over a long period of time or, in terms of time, were isolated events.

c. Whether the violations were recent.

d. Whether the violations also constituted violations of sections 311 and 313 of the Communications Act.

2. To obtain full information concerning the individual or individuals responsible for the formulation of the applicants, present business policies and to determine whether those policies as formulated, and as executed, are violative of Federal or State anti-trust laws.

3. To obtain full information with respect to the restrictions, if any, imposed by the applicants on broadcast stations in the use inter alia of motion picture films or stories produced, distributed, or exhibited by the applicants or restrictions imposed on broadcast stations in the use of talent under contract to or employed by the applicants.

4. To obtain full information with respect to the plans of the applicants for the staffing and programming of their broadcast stations.

5. To determine in the light of the evidence adduced under the above issues, whether the applicants, their officers, stockholders and directors, are qualified from the standpoint of character and conduct to be licensees, and whether grant of the above applications would be in the public interest, convenience and necessity.

It is further ordered, That, the above transfer applications be heard on the following issues:

1. To obtain full information with respect to the participation of any of the applicants, their officers, directors, stockholders, employees, or agents, in any violations of either Federal or State anti-trust laws, the extent and character of such participation, and the results of any litigation flowing from such participation and more specifically to secure information as to:

a. Whether the violations committed were willful or inadvertent.

b. Whether the violations were committed over a long period of time or, in terms of time, were isolated events.

c. Whether the violations were recent.

d. Whether the violations also constituted violations of sections 311 and 313 of the Communications Act.

2. To obtain full information as to the terms of the consent decree entered by Paramount Pictures, Inc., as a result of the decision of the Supreme Court of the United States in U. S. v. Paramount Pictures, Inc., 334 U. S. 131, and as to the steps taken by Paramount Pictures, Inc. pursuant thereto, with particular reference to the steps taken by Paramount Pictures, Inc., to properly comply with sections 310 (b) and 319 (b) of the Communications Act of 1934, as amended.

3. To obtain full information with respect to all the facts and circumstances surrounding the filing of the aforesaid transfer applications on December 22, 1949 (and July 21, 1950, by Allan B. DuMont Laboratories, Inc.), and, further, to determine whether the execution of any contracts, agreements or understandings entered into by Paramount Pictures, Inc., relating to said transfer applications aforesaid or any acts performed pursuant thereto, were in violation of sections 310 (b) and 319 (b) of the Communications Act of 1934, as amended, or in violation of the rules and regulations of the Commission with particular reference to §§ 1.321, 1.342, and 1.343 of said rules and regulations.

4. To obtain full information regarding the properties received by transferees, Paramount Pictures Corporation and United Paramount Theatres, Inc., as a result of the dissolution of Paramount Pictures, Inc., the consideration paid therefor, and the terms of payment of such consideration, and in the event no monetary consideration was paid, the full terms of the transactions resulting in the acquisition by the transferees of the properties in question.

5. To determine whether, since January 1, 1950, the broadcast facilities licensed to Paramount Pictures, Inc., have

been owned, operated or controlled by individuals or corporations without authorization of this Commission and in violation of section 301 of the Communications Act.

6. To obtain full information with respect to the corporate structure of transferees, Paramount Pictures Corporation and United Paramount Theatres, Inc., and with respect to the legal, technical, financial and other qualifications of their officers, directors, and stockholders.

7. To determine the policies to be pursued by Paramount Pictures Corporation and United Paramount Theatres, Inc., in the operation and control of the broadcast facilities owned by them or by their subsidiaries and to obtain full information as to the individual or individuals authorized to formulate and execute such policies.

8. To determine the relationship, if any, presently existing between Paramount Pictures Corporation and United Paramount Theatres, Inc., and what arrangements have or will be made between them with respect to the production, distribution, and exhibition or restriction on the use of motion picture films, stories, or talent through the medium of either motion picture theatres or television broadcast stations.

9. To obtain full information as to the ownership, management, and control of Allan B. DuMont Laboratories, Inc.

10. To obtain full information with respect to the policies and plans of the transferees relating to any arrangements contemplated for the televising of selected programs in theatres to the exclusion of other outlets.

11. To determine in the light of the evidence adduced under the above issues, whether the applicants, their officers, stockholders and directors, are qualified from the standpoint of character and conduct to be licensees, and whether grant of the above applications would be in the public interest, convenience and necessity.

Released: August 9, 1951.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary,

[F. R. Doc. 51-9731; Filed, Aug. 15, 1951; 8:49 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 26318]

VARIOUS COMMODITIES FROM ILLINOIS TO SOUTHERN TERRITORY

APPLICATION FOR RELIEF

AUGUST 13, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. G. Raasch, Agent, for carriers parties to his tariffs I. C. C. Nos. 620 and 699, pursuant to fourth-section order No. 9800.

Commodities involved: Various commodities, carloads.

From: Specified points in Illinois.

To: Specified points in southern territory.

Grounds for relief: Circuitous routes.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 51-9724; Filed, Aug. 15, 1951; 8:48 a. m.]

[4th Sec. Application 26319]

LARD AND LARD SUBSTITUTES FROM TEXAS POINTS TO KANSAS, OKLAHOMA, AND MISSOURI

APPLICATION FOR RELIEF

AUGUST 13, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: D. Q. Marsh, Agent, for carriers parties to his tariff I. C. C. No. 3588.

Commodities involved: Lard, lard compounds, lard substitutes, and vegetable oils, carloads.

From: Dallas, Fort Worth, North Fort Worth, and Sherman, Tex.

To: Points in Kansas and Oklahoma, and Joplin, Mo.

Grounds for relief: Circuitous routes.

Schedules filed containing proposed rates: D. Q. Marsh's tariff I. C. C. No. 3588, Supp. 146.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 51-9725; Filed, Aug. 15, 1951; 8:48 a. m.]

[4th Sec. Application 26320]

TALL OIL FROM ARKANSAS, LOUISIANA, AND TEXAS TO HATTIESBURG, MISS.

APPLICATION FOR RELIEF

AUGUST 13, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: D. Q. Marsh, Agent, for carriers parties to his tariffs I. C. C. Nos. 3906, 3908, and 3967.

Commodities involved: Tall oil, crude (the product of acidification of skimmings of soda or sulphate black liquor), carloads.

From: Advance, La., Houston, Tex., and other specified points in Arkansas, Louisiana, and Texas.

To: Hattiesburg, Miss.

Grounds for relief: Circuitous routes and to apply over short tariff routes rates constructed on the basis of the short line distance formula.

Schedules filed containing proposed rates: D. Q. Marsh's tariff I. C. C. No. 3967, Supp. 18; D. Q. Marsh's tariff I. C. C. No. 3908, Supp. 66; D. Q. Marsh's tariff I. C. C. No. 3906, Supp. 65.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 51-9726; Filed, Aug. 15, 1951; 8:48 a. m.]

[4th Sec. Application 26321]

GLASS RODS OR TUBING FROM LOGAN, OHIO, TO BOWLING GREEN, KY.

APPLICATION FOR RELIEF

AUGUST 13, 1951.

The Commission is in receipt of the above-entitled and numbered applica-

tion for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: L. C. Schuldt, Agent, for carriers parties to his tariff I. C. C. No. 4300, pursuant to fourth-section order No. 9800.

Commodities involved: Rods or tubing, glass (incandescent electric lamp material), carloads.

From: Logan, Ohio.

To: Bowling Green, Ky.

Grounds for relief: Circuitous routes.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-9727; Filed, Aug. 15, 1951; 8:48 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 811-506]

SPECIAL RISKS FUND, INC.

NOTICE OF APPLICATION

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 10th day of August A. D. 1951.

Notice is hereby given that Special Risks Fund, Inc. (Applicant) has filed an application pursuant to section 8 (f) of the Investment Company Act of 1940 for an order of the Commission declaring that it has ceased to be an investment company within the meaning of the act.

It appears from the application that applicant has outstanding only 2,384 shares, held by only 21 shareholders, and is not making and does not presently propose to make a public offering of its securities. Section 3 (c) (1) of the act provides that any issuer whose outstanding securities are beneficially owned by not more than 100 persons and does not presently propose to make a public offering of its securities is not an investment company within the meaning of the act.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission in Washington, D. C.

Notice is further given that an order granting the application, in whole or in part and upon such conditions as the Commission may see fit to impose, may be issued by the Commission at any time after August 21, 1951, unless prior thereto a hearing upon the application is ordered by the Commission, as provided in Rule N-5 of the rules and regulations promulgated under the act. Any interested persons may, not later than August 20, 1951, at 5:30 p. m., in writing submit to the Commission his views or any additional facts bearing upon this application or the desirability of a hearing thereon, or request the Commission in writing that a hearing be held thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C., and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact or law raised by the application which he desires to controvert.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 51-9703; Filed, Aug. 15, 1951; 8:46 a. m.]

[File No. 70-2686]

COLUMBIA GAS SYSTEM, INC. AND NATURAL GAS CO. OF WEST VIRGINIA

NOTICE REGARDING ISSUANCE AND SALE OF NOTES TO PARENT COMPANY BY SUBSIDIARY

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 10th day of August A. D. 1951.

Notice is hereby given that a joint application has been filed with this Commission by The Columbia Gas System, Inc. ("Columbia"), a registered holding company, and its subsidiary company, Natural Gas Company of West Virginia ("Natural Gas"), pursuant to the Public Utility Holding Company Act of 1935. The joint applicants have designated sections 6 (b), 9 and 10 of the act as being applicable to the proposed transactions.

All interested persons are referred to said application, which is on file in the office of this Commission, for a statement of the transactions therein proposed, which are summarized as follows:

Natural Gas proposes to issue and sell and Columbia proposes to acquire, from time to time, prior to March 31, 1952, not to exceed $600,000 principal amount of Natural Gas' unsecured Installment Promissory Notes. Said notes would be registered and the principal amounts thereof are to be payable in 25 equal annual installments on February 15th of each of the years 1953 to 1977, inclusive. The unpaid principal amounts of such notes would bear interest at the rate of 3¼ percent per annum payable semi-annually on February 15th and August 15th of each year during the time the notes are outstanding. The proceeds from the sale of said notes would be used by Natural Gas to finance a part of its proposed 1951 construction program.

The joint application states that the Public Service Commission of the State of West Virginia has jurisdiction over the proposed issuance and sale of the said 3¼ percent notes of Natural Gas.

Notice is further given that any interested person may, not later than August 27, 1951, at 5:30 p. m., e. d. s. t., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request, the nature of his interest and the issues of fact or law raised by such application which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after August 27, 1951, said joint application, as filed or as amended, may be granted as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transactions as provided in Rules U-20 (a) and U-100 thereof.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 51-9709; Filed, Aug. 15, 1951; 8:46 a. m.]

[File No. 70-2683]

COLUMBIA GAS SYSTEM, INC. AND MANUFACTURERS LIGHT AND HEAT CO.

NOTICE REGARDING ISSUANCE AND SALE OF NOTES TO PARENT COMPANY BY SUBSIDIARY

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 10th day of August A. D. 1951.

Notice is hereby given that a joint application has been filed with this Commission by The Columbia Gas System, Inc. ("Columbia"), a registered holding company, and its subsidiary company, The Manufacturers Light and Heat Company ("Manufacturers"), pursuant to the Public Utility Holding Company Act of 1935. The joint applicants have designated sections 6 (b), 9 and 10 of the act as being applicable to the proposed transactions.

All interested persons are referred to said application, which is on file in the office of this Commission, for a statement of the transactions therein proposed, which are summarized as follows:

Manufacturers proposes to issue and sell and Columbia proposes to acquire, from time to time, prior to March 31, 1952, not to exceed $11,000,000 principal amount of Manufacturers' unsecured Installment Promissory Notes. Said notes would be registered and the principal amounts thereof are to be payable in 25 equal annual installments on February 15th of each of the years 1953 to 1977, inclusive. The unpaid principal amounts on such notes would bear interest at the rate of 3¼ percent per annum, payable semi-annually on February 15th and August 15th of each year during the time the notes are outstanding. The proceeds from the sale of said notes would

be used by Manufacturers to finance a part of its proposed 1951 construction program.

The joint application states that the Pennsylvania Public Utility Commission has jurisdiction over the proposed issuance and sale of the said 3¼ percent notes of Manufacturers.

Notice is further given that any interested person may, not later than August 24, 1951, at 5:30 p. m., e. d. s. t., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request, the nature of his interest and the issues of fact or law raised by such application which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after August 24, 1951, said joint application, as filed or as amended, may be granted as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transactions as provided in Rules U-20 (a) and U-100 thereof.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 51-9710; Filed, Aug. 15, 1951; 8:46 a. m.]

[File No. 812-737]

PENNROAD CORP.

ORDER GRANTING EXEMPTION APPLICATION

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 10th day of August A. D. 1951.

The Pennroad Corporation (Pennroad) has filed an application pursuant to sections 6 (c), 10 (f), and 17 (b) of the Investment Company Act of 1940 for an order granting exemption from the provisions of sections 10 (f) and 17 (a) of said act for the acquisition by Pennroad of 50 shares of 4 Percent Cumulative Second Preferred Stock, $100 par value, of Charles Pfizer & Co., Inc. from Riter & Co., as well as for the acquisition of 500 shares of said stock from Morgan Stanley & Co., and to permit Pennroad to acquire 800 shares of said stock from Kuhn, Loeb & Co., all at the public offering price of $101.50.

Pennroad is a closed end, non-diversified, management company registered under the Investment Company Act of 1940. Due to a misunderstanding of the requirements of the act, Pennroad failed to apply for an exemption from the act in connection with the purchases from Riter & Co. and Morgan Stanley & Co. Evidence has been submitted to show that the application is in the interest of Pennroad and its stockholders; that the market price of the stock has advanced since the purchase thereof; that the terms of the purchases, including the consideration, are fair and do not involve overreaching on the part of anyone concerned; that the transactions are consistent with Pennroad's policy as recited in its registration statement and with the general purposes of the act; and that the exemptions sought are consistent with the protection of investors.

Notice of the filing of said application was duly given in the manner and form prescribed in Rule N-5 under the act, and the Commission has not received a request for a hearing within the period specified in such notice. A hearing does not appear necessary or appropriate in the public interest or for the protection of investors.

Wherefore, the Commission having considered the application, finds that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve over-reaching on the part of any persons concerned; that the proposed transaction is consistent with the policy of The Pennroad Corporation as recited in its registration statement and reports filed under the act; that the proposed transaction is consistent with the general purposes of the act, and with the protection of investors.

It is ordered, therefore, That the transactions involving the purchase by Pennroad of 50 shares of 4 Percent Cumulative Second Preferred Stock, $100 par value, from Riter & Co., 500 shares of said stock from Morgan Stanley & Co., and the proposed transaction involving the purchase by Pennroad of 800 shares of said stock from Kuhn, Loeb & Co. be and the same hereby are exempted from the provisions of sections 10 (f) and 17 (a) of the Investment Company Act of 1940.

By the Commission.

[SEAL] NELLYE A. THORSEN, *Assistant Secretary.*

[F. R. Doc. 51-9711; Filed, Aug. 15, 1951; 8:47 a. m.]

[File No. 70-2682]

COLUMBIA GAS SYSTEM, INC., AND HOME GAS CO.

NOTICE REGARDING ISSUANCE AND SALE OF NOTES TO PARENT COMPANY BY SUBSIDIARY

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 10th day of August A. D. 1951.

Notice is hereby given that a joint application has been filed with this Commission by The Columbia Gas System, Inc. ("Columbia"), a registered holding company, and its subsidiary company, Home Gas Company ("Home"), pursuant to the Public Utility Holding Company Act of 1935. The joint applicants have designated sections 6 (b), 9 and 10 of the act as being applicable to the proposed transactions.

All interested persons are referred to said application, which is on file in the office of this Commission, for a statement of the transactions therein proposed, which are summarized as follows:

Home proposes to issue and sell and Columbia proposes to acquire, from time to time, prior to March 31, 1952, not to exceed $1,100,000 principal amount of Home's unsecured Installment Promissory Notes. Said notes would be registered and the principal amounts thereof are to be payable in 25 equal annual installments on February 15th of each of the years 1953 to 1977, inclusive. The unpaid principal amounts of such notes would bear interest at the rate of 3¼ percent per annum, payable semiannually on February 15th and August 15th of each year during the time the notes are outstanding. The proceeds from the sale of said notes would be used by Home to finance a part of its proposed 1951 construction program.

The joint application states that the Public Service Commission of the State of New York has jurisdiction over the proposed issuance and sale of the said 3¼ percent notes of Home.

Notice is further given that any interested person may, not later than August 24, 1951, at 5:30 p. m., e. d. s. t., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request, the nature of his interest and the issues of fact or law raised by such application which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after August 24, 1951, said joint application, as filed or as amended, may be granted as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transactions as provided in Rules U-20 (a) and U-100 thereof.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 51-9712; Filed, Aug. 15, 1951; 8:47 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 18295]

BERTHA S. HUNNEWELL

In re: Trust under the will of Bertha S. Hunnewell, deceased. D-28-10637-G-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Emmy Schmidt, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the person named in subparagraph 1 hereof, in and to all funds arising from the trust created under the will of Bertha S. Hunnewell, deceased,

is property payable or deliverable to, or claimed by, the aforesaid national of a designated enemy country (Germany);

3. That such property is in the process of administration by Frank H. Theall, trustee, acting under the judicial supervision of the Probate Court, Suffolk County, Boston, Massachusetts;

and it is hereby determined:

4. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on August 10, 1951.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 51-9677; Filed, Aug. 14, 1951; 8:53 a. m.]

[Vesting Order 18296]

HARRY H. HUNNEWELL ET AL.

In re: Trust agreement dated May 2, 1927, between Harry H. Hunnewell of Coronada, California, grantor and Hollis H. Shaw of Brookline, Massachusetts, and Frank A. Theall of Boston, Massachusetts, trustees, as amended by amendment dated February 8, 1933. File No. F-28-10636-G-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Emmy Schmidt, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the person named in subparagraph 1 hereof, in and to and arising out of or under that certain trust agreement dated May 2, 1927, and amended February 8, 1933, by and between Harry H. Hunnewell, grantor, and Hollis H. Shaw and Frank A. Theall, as trustees, is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person identified in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on August 10, 1951.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 51-9678; Filed, Aug. 14, 1951; 8:53 a. m.]

[Vesting Order 18297]

EMMY SCHMIDT AND FRANK A. THEALL

In re: Trust under indenture dated May 29, 1939, between Emmy Schmidt, grantor, and Frank A. Theall, trustee, as amended, by amendment dated July 23, 1951. F-28-8649-G-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Emmy Schmidt, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That all right, title, interest and claim of any kind or character whatsoever of the person named in subparagraph 1 hereof, in and to and arising out of or under that certain trust under indenture dated May 29, 1939, and amended July 23, 1951, by and between Emmy Schmidt, grantor, and Frank A. Theall, trustee, is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person identified in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on August 10, 1951.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 51-9679; Filed, Aug. 14, 1951; 8:53 a. m.]

MARIE JESSACHER

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Property, and Location

Marie Jessacher, Salzburg, Austria; Claim No. 42278; $1,390.06 in the Treasury of the United States.

Executed at Washington, D. C., on August 6, 1951.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 51-9680; Filed, Aug. 14, 1951; 8:53 a. m.]